

**OLT Appeal of OPA 231 – 1235-1255 Lawrence Avenue
West and 3-23 Benton Road – Request for Directions**

Date: April 27, 2022

To: City Council

From: City Solicitor

Wards: All Wards

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

City Council adopted Official Plan Amendment 231 ("OPA 231") on December 18, 2013 following the Five-Year Official Plan and Municipal Comprehensive Reviews regarding employment lands. OPA 231 re-designates part of the lands at 1235-1255 Lawrence Avenue West and 3-23 Benton Road (the "Appeal Lands") as *General Employment Areas* and the remainder as *Core Employment Areas*.

G. Gagliano Properties Ltd./Benton Property Corp. (the "Appellant") has appealed OPA 231 to seek the *Mixed Use Areas* designation on all or part of the Appeal Lands. The City Solicitor requires further directions for an upcoming hearing event before the Ontario Land Tribunal.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this Report from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1 and Confidential 2 to this Report from the City Solicitor only at the discretion of the City Solicitor.

3. City Council direct that all other information contained in Confidential Attachment 1 to this Report from the City Solicitor remain confidential, as it contains advice and information which is subject to solicitor-client privilege.

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the Confidential Recommendations beyond what has already been approved in the current year's budget.

DECISION HISTORY

City Council adopted OPA 231 on December 18, 2013 with respect to the economic health policies and the *Employment Areas* policies, designations and mapping 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 limited modifications in July 2014. The OLT received a total of 178 appeals to OPA 231, including Appeal 92 regarding the Appeal Lands. 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. The May 2020 Order approved Employment Land Conversion and Forecasting policies. Citywide policy matters that remain before the OLT relate to retail and office replacement policies. There are approximately 75 site and area specific appeals that remain to be resolved. The OLT Decisions and the OLT's webpage on hearing proceedings can be accessed at this link:
<https://jus-olt-prod.powerappsportals.com/en/e-status/details/?id=1f6c3234-4e96-ec11-b400-0022483e85c0>

On February 2, 2022, City Council considered a report from the City Solicitor regarding a without prejudice settlement offer from the Appellant regarding the Appeal Lands. Council refused the settlement offer and authorized City staff to enter into settlement discussions with the Appellant to consider introducing some residential uses on the north part of the Appeal Lands, provided a comprehensive land use approach could be applied to the southeast quadrant of Lawrence Avenue and Keele Street to ensure employment space is secured on the Lands along with other necessary complete community components. The City's decision can be accessed at this link:
<https://secure.toronto.ca/council/agenda-item.do?item=2022.CC39.2>

On March 25, 2022, Planning and Housing Committee considered a report from the Chief Planner regarding *Employment Area* Conversion Requests being reviewed as part of the city-initiated Municipal Comprehensive Review (the "MCR") to bring the Official Plan in conformity with the Growth Plan for the Greater Golden Horseshoe 2020. Conversion Request 098 ("CR 098") sought residential permissions on the lands west of the Appeal Lands, at 1265-1275 Lawrence Avenue West. The Committee moved to request that staff expand their review of CR 098 to also consider the Appeal Lands and OLT Appeal of OPA 231 - 1235-1255 Lawrence Avenue West and 3-23 Benton Road - Request for Direction

other properties located west of the Lands and south of 1265-1275 Lawrence Avenue, at 10-22 Benton Road. The City's decision can be accessed at this link:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH32.8>

On July 22, 2022, City Council adopted Official Plan Amendment 591 (OPA 591) as part of the MCR with respect to the economic health policies, *Employment Areas* policies and the conversion of certain employment lands to permit non-employment uses. OPA 591 amends the Plan by re-designating the adjacent lands at 1265-1275 Lawrence Avenue West from *General Employment Areas* to *Mixed Use Areas* and adding a new Site and Area Specific Policy ("SASP") 783. The SASP secures prescriptive rates of affordable housing and a minimum amount of employment gross floor area on 1265-1275 Lawrence Avenue West and also requires a Safety Study and Rail Mitigation Report. OPA 591 has been submitted to the Minister of Municipal Affairs and Housing for approval and a decision is pending. The City's decision can be accessed at this link:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH35.15>

COMMENTS

The Appeal Lands are approximately 3.5 hectares in area and developed with a low scale media production building and a warehouse.

The Appeal Lands are located south of Lawrence Avenue West between Keele Street and Caledonia Road, immediately west of the CNR rail corridor. The Appeal Lands have frontage on the south side of Lawrence Avenue West and the east side of Benton Road.

North of the Appeal Lands and Lawrence Avenue West are low scale residential uses. East of the Appeal Lands and the abutting rail corridor are automobile repair uses and other small scale employment uses on *Core Employment Area* lands where SASP 57 permits low scale residential uses. South of the Appeal Lands are office and warehouse uses on *Core Employment Area* lands. West of the Appeal Lands along Lawrence Avenue is a restaurant and vacant land at 1265-1275 Lawrence Avenue West, which OPA 591 re-designates as *Mixed Use Areas*. Also located west of the Appeal Lands along the west side of Benton Road are two places of worship, a distribution centre, automobile repair and retail uses on *Core Employment Area* lands. Beyond these uses to the west is a retail plaza that is designated *Mixed Use Areas*.

Although under appeal, OPA 231 designates the north part of the Appeal Lands along Lawrence Avenue West as *General Employment Areas* and the remainder as *Core Employment Areas*.

The *General Employment Areas* designation generally applies to lands located on the periphery of *Employment Areas* on major roads such as Lawrence Avenue West. Permitted uses include all uses permitted in *Core Employment Areas* as well as retail, service and restaurant uses with the intent that they serve workers in the *Employment Area* and also benefit from visibility and transit access to draw the broader public. The *Core Employment Areas* designation 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*.

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

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Instructions to Staff and Confidential Advice Subject to Solicitor-Client Privilege
2. Confidential Attachment 2 - Confidential Information