

NOVÆ RES URBIS TORONTO

FRIDAY,
JULY 19, 2019

Vol. 23
No. 29

3 UNCHARTED TERRITORY

Opening the
Yellowbelt

5 TO MAKE A VILLAGE

Dufferin Redev



RAIL DECK PARK

DANGEROUS PRECEDENT?

Rachael Williams

In the wake of CRAFT Acquisitions' unsuccessful appeal of the City of Toronto's Official Plan Amendment 395 (see *LPAT News*, page 12), which sets the policy framework for Rail Deck Park, municipal planning lawyer **Ira Kagan** says the **Local Planning Appeal Tribunal's** decision to protect the city's right to build a public park sets a "dangerous precedent" for how much power the city can exert over future land development.

The Local Planning Appeal Tribunal (LPAT) dismissed appeals of OPA 395 by **CRAFT Acquisitions Corporation** and **P.I.T.S. Development** (CRAFT), as well as the **Canadian National Railway Company** and **Toronto Terminals Railway Company** on the grounds that OPA 395 is consistent with the Provincial Policy Statement (PPS) and conforms with the provincial Growth Plan 2019.

OPA 395 is a policy

document pertaining to the railway lands located between Bathurst Street and Blue Jays Way. The city has plans to build an elevated, decked structure over the Union Station Rail Corridor to accommodate a public park. CRAFT, which owns a strata property interest above the rail corridor that corresponds substantially with the Rail

Deck Park boundary, has applied for an Official Plan Amendment for a mixed-use development consisting of eight buildings and a park over the rail corridor.

"The LPAT permitted the city to authorize only a single use on developable land, that single use being a public park, which is a public use. So you could actually interpret

the Official Plan as saying this – that the only permitted use of the property is by the Corporation of the City of Toronto for park purposes," said Kagan, who represented CRAFT during the appeal.

Kagan stressed that if the city can designate privately-owned air rights in the

CONTINUED PAGE 8

Rendering of the proposed Rail Deck Park, an 8.5-hectare green space in the heart of downtown Toronto.

SOURCE: CITY OF TORONTO



UPCOMING

AUGUST

26 Preservation Board, 9:30 a.m., committee room 1

SEPTEMBER

4 General Government & Licensing Committee, 9:30 a.m., committee room 1

5 Economic & Community Development Committee, 9:30 a.m., committee room 1

6 Budget Committee, 9:30 a.m., committee room 1

9 Infrastructure & Environment Committee, 9:30 a.m., committee room 1

16 Etobicoke York Community Council, 9:30 a.m., council chamber, Etobicoke Civic Centre

North York Community Council, 9:30 a.m., council chamber, North York Civic Centre

Scarborough Community Council, 9:30 a.m., council chamber, Scarborough Civic Centre

Toronto & East York Community Council, 9:30 a.m., committee room 1

17 Planning & Housing Committee, 9:30 a.m., committee room 1

18 Executive Committee, 9:30 a.m., committee room 1

19 Design Review Panel, time TBC, committee room 2

23 Preservation Board, 9:30 a.m., committee room 2

24 CreateTO, 9:30 a.m., committee room 3

25 Special Committee on Governance, 9:30 a.m., committee room 1

OCTOBER

2-3 Council, 9:30 a.m., council chamber



COMMUNITY BENEFITS FRAMEWORK

A FIRST STEP



Rob Jowett

The City of Toronto has developed a new framework to develop community benefits agreements in a clear and consistent manner, but advocates say it does not adequately address all the issues it is intended to.

Council adopted the community benefits framework at its meeting July 16-18, which is meant to be a way for the city to multiply the impact of its spending by adding conditions

to approval of the city's development projects to ensure that local community needs are met. Primarily, the framework is an expansion of the city's existing social procurement policy, which requires that any competitive purchase over \$3,000 prioritize diverse suppliers, which are companies that either employ at least 50 per cent members of equity-seeking communities or are majority owned by members of equity-seeking communities.

The framework also builds on the workforce development program Construction Connections, which helps construction companies connect with equity-seeking employees. The framework will be applied to city-led projects, but does not affect private developments.

"I think the overall goal of this framework is to really bring some of these different initiatives under a coordinator role—so to actually have a staff person at the city who can be that convener that can work with both the industry, as well as the unions, as well as the community, and with the city internally," Toronto Community Benefits Network campaigns manager Kumsa Baker told NRU. "I think with the many city divisions, and then also some of the agencies and corporations, some of these... have their

CONTINUED PAGE 10



Conceptual master plan for the Woodbine Racetrack, which is being redeveloped with a community benefits agreement.

SOURCE: CITY OF TORONTO

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SALES/SUBSCRIPTIONS
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Annual subscription rate is \$409 + HST (ON).
Complimentary trial subscriptions are available.

Advertising rates available upon request.

Novæ Res Urbis Toronto
is published 50 times a year and is not to be redistributed without the written consent of the publisher.

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ISSN 1918-7548

CONQUERING THE YELLOWBELT



Rachael Williams

In what was deemed by some local planners to be an impossible feat, Toronto city council approved a motion Thursday to explore opportunities to provide a greater variety of housing options in the city's stable neighbourhoods.

Put forward by Mayor **John Tory** and approved at the July 17 council meeting, the motion recommends that the chief planner and executive director of city planning report back to planning and housing committee in late 2019 with recommendations and a timeline for increasing housing options and planning permissions in areas of Toronto designated as *Neighbourhoods* in the city's Official Plan. These neighbourhood designations are commonly referred to as the "yellowbelt" - where zoning permits only single, detached dwellings - and represent approximately 70 per cent of the city.

"I think we were a little bit surprised that council would confront the yellowbelt issue," said **Hertel Planning Associates** principal, **Sean Hertel**.

Protecting these stable neighbourhoods has been a widely contested subject among industry stakeholders.

Private sector planners and developers contend that opening the yellowbelt will allow for a more diversified housing stock, such as duplexes, triplexes and fourplexes, in previously homogeneous areas, providing more housing options for young or multi-generational families, seniors or residents looking to upgrade from condominium units.

But Hertel contends council has never been courageous enough to consider these types of bold moves, fearing political pushback, an attitude he hopes is on the way out with the passing of this motion.

"I'm hoping that this is a sign we will do the heavy lifting and do the things required to be the type of city we tell people we

are," he said.

SvN Architects + Planners business development director **Blair Scorgie** told *NRU* opening the yellowbelt will lead to a rebalancing of neighbourhood populations. Since 2001, stable neighbourhoods have experienced a decrease in population of 220,000, mostly children and early and mid-career adults, leaving the public infrastructure in those neighbourhoods underutilized. Providing more opportunities for an appropriate mix of housing tenures and types will allow for greater use of public infrastructure, will result in a more diverse population mix and will transform Toronto's stable neighbourhoods to communities that are resilient

and flexible to change.

"It will also have a positive impact on main street businesses that are faced with the fact that the value of land is going up, but the actual [proportion] of service-commercial uses is declining and so hopefully we can create a critical mass of population to help support mom-and-pop shops and small-scale businesses that are having a difficult time in some of these communities," he said.

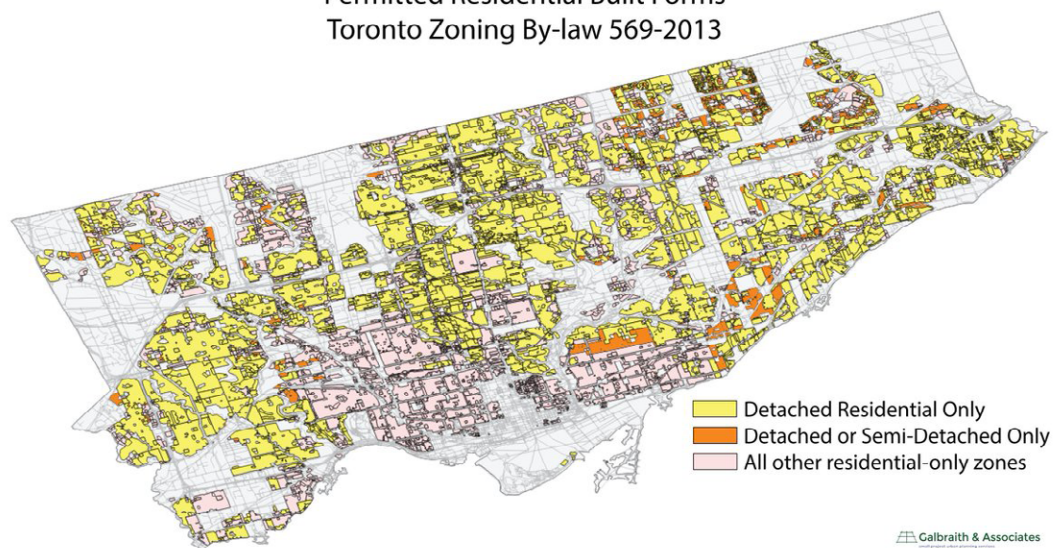
Scorgie adds it could help create a new breed of developer

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Map of City of Toronto's residential zoning permissions. The areas shown in yellow are referred to as the "yellowbelt" and only allow for the construction of single detached residential homes.

SOURCE: GALBRAITH & ASSOCIATES

Permitted Residential Built Forms
Toronto Zoning By-law 569-2013



Galbraith & Associates

CONQUERING THE YELLOWBELT

■ CONTINUED FROM PAGE 3

specializing in these types of small to mid-sized projects and result in an expansion of the existing companies focusing on modular housing or laneway housing, such as **R-Hauz** or **Lanescape**. Development managers, coordinators or real estate agents who work for large companies but have side businesses working independently on small-scale building projects may also have more opportunities to lead the charge on missing middle housing development. These types of developers have already been active in lot-splitting projects in Long Branch and Willowdale, where older bungalows have been torn down to make way for two taller, detached, more modern homes.

“There are thousands of players. There are the well-known builders - **Menkes**, **Tridel**, **Mattamy** and so on. Then you’ve got a whole raft of small custom builders and there’s hundreds of them. Then you’ve got large contractors that also quite often have small building operations. Then on top of that you’ve got property owners... that are creating triple-purpose properties, one where you can live in and where you have some income from the rest of it that offsets the redevelopment cost,” said **Residential Construction**

Council of Ontario president **Richard Lyall**.

Mid-rise development companies that may find it difficult to construct mid-rise building typologies to the city’s built form standards along centres and avenues while still earning a profit could also look for greater development opportunities at the edges of neighbourhoods.

“Much of the land in the centres is spoken for, especially in the downtown core. And then with respect to avenues, the building typology of mid-rise is such that the land economics for many projects just aren’t there. The lots can be too narrow, they can be too shallow, they can be both narrow and shallow. And when you manage to wedge yourself into this small footprint, the numbers may not work and that doesn’t even account for the compatibility issues and expectations of adjacent neighbours,” said Hertel.

“What you’re seeing is a lot of developers just giving up hope that the avenues can generate any critical mass of development whatsoever. So whether or not these developments would find some traction from a pro forma perspective in the yellowbelt, I don’t know.”

Tackling an issue as polarizing as infill development

in existing neighbourhoods will come with a number of challenges, according to **Galbraith & Associates** president **Sean Galbraith**. This includes whether the zoning will be updated appropriately to reflect potential Official Plan changes. Galbraith also predicts policy disputes will arise from the passing of Official Plan Amendment (OPA) 320. Approved by the Local Planning Appeal Tribunal in December 2018, OPA 320 introduces language that is designed to protect the “prevailing character” of existing neighbourhoods.

“The challenge is going to be that even if we get the yellowbelt changes made, that this prevailing character crap is still lodged into the Official Plan and could still generate road bumps in the future. Let’s say you want to go for minor variance. One of the tests of minor variance is that it meets the intent and purpose of the official plan and if what you’re permitting does not meet prevailing character of built form in the neighbourhood, how do you pass that test?”

Council having the political will to move ahead with implementing any staff recommended changes will also be a significant hurdle to clear in opening the yellowbelt. Comparing it to the laneway housing debate that took nearly three years before council approved implementation policies, Galbraith said he is “cautiously pessimistic” that the staff report will yield

any significant changes in *Neighbourhood* designations.

“I think part of it is we have to be honest with ourselves. Toronto really needs a moment of reckoning...Most of Toronto is closed off to development. A lot of our neighbourhoods are actually losing population. I don’t know if we’re courageous enough collectively to have that conversation because this council does not lead and start courageous conversations. They run from [them], traditionally. They run the other way,” noted Hertel.

Snags in the development approvals process is also an inevitable hurdle that will need to be addressed in order for small-scale developers to want to move ahead with missing middle projects. Solutions could include the city instituting an electronic application system where instead of appearing in person at City Hall, developers could submit plans online and check for status updates. Having a dedicated city planning staff team looking at built form requirements, adjacencies, compatibility issues, appropriate design and massing could also expedite missing middle housing approvals.

“This [motion] is very much the first step in what needs to be a fundamental, from the ground up, revisioning of what the city should be and how it should be built and what form it should take. It’s step one of 20, but it’s important to take this first step,” said Galbraith. 🌱

COMMUNITY-FOCUSSED REDEVELOPMENT



Rob Jowett

Redeveloping part of the site of the Dufferin Mall would bring significant intensification to the Dufferin Grove neighbourhood, an area already facing major development pressure. However, the redevelopment could also address community concerns about a lack of affordable rental housing in the area.

Primaris Management, a subsidiary of **H&R REIT**, is proposing to redevelop of part of the Dufferin Mall at 900 Dufferin Street with a large mixed-use development, referred to as Dufferin Grove Village. The proposal currently includes a 39 and a 35-storey residential tower atop a five-storey podium and a 14 and a 23-storey residential tower atop an eight-storey podium. There would be 1,135 rental units, 11,639 square metres of retail space, and a 1,560-square metre public park on the site. The 1.5-hectare development site is located on the mall's northern parking lot, and all existing parking would be replaced in an underground parking structure.

"We want to make the mall

better, and we want to add residential units in an area that... has had an extremely high demand for rental, and below a one per cent vacancy

rate," Primaris Management development and construction vice-president **Matt Kingston** told *NRU*. "We want to make [the mall] bigger. The retail that

lines Croatia [Street], Dufferin, and ultimately [the new public park] Dufferin Commons—we want that to be different. [The retail strip is] going to be a little smaller, and a little different than the mall offering that we have."

The proposal also includes new pedestrian and vehicular connections through the site to the surrounding neighbourhood and into the mall itself. The mall will remain open during the entire redevelopment.

Kingston says that this development concept is still very preliminary, and is subject to change based on negotiations with the city, the input of Ward 9 Davenport councillor **Ana Bailão** and members of the community, as well as market conditions at the time of a

CONTINUED PAGE 6 ■



Location of Primaris' proposed mixed-use development, Dufferin Grove Village, at 900 Dufferin Street.

SOURCE: PRIMARIS MANAGEMENT

Site plan of Primaris' proposed mixed-use development that would expand retail and add residential uses to Dufferin Mall.

SOURCE: PRIMARIS MANAGEMENT

COMMUNITY-FOCUSSED REDEVELOPMENT

CONTINUED FROM PAGE 5

final approval. However, Build a Better Bloor Dufferin spokesperson **Jason Brown** told *NRU* that based on an initial examination of the proposal, the biggest concern for residents is ensuring that the final development is consistent with what is currently being proposed.

“If all this is actually what’s happening, maybe it will be good enough,” he says. “We know that density is coming to the city. We know that we can’t avoid it... [so] we’re looking for community benefits.”

Brown says that the community is in need of increased parkland and community space, as well as a more diverse mix of housing

options. He says that providing the rental housing in the proposal is the most important community priority, and adds that as many of these units as possible should be affordable.

“They’re saying that it’s going to be rental,” he says. “We’re going to try to hold them to that. At this point, there’s nothing that says they can’t switch to condos down the line.”

Toronto and East York District west section planner **Kirk Hatcher** told *NRU* that following a cursory examination of the proposal, staff does not have immediate concerns apart from potential shadowing effects from the residential towers onto

nearby parkland. He adds that planning staff do support the concept of redevelopment on the site.

“Almost anything is better than surface parking in downtown Toronto,” he says. “We like the idea that it’s rental. We like the fact that there’s a new park and there’s new connections being provided and parking’s being put underground.”

The Dufferin Mall redevelopment is one part of major intensification that is coming to the area. Most significantly, **Bloor Dufferin Development Limited Partnership**, which is a joint venture between **Metropia** and **Capital Developments**, is proposing a mixed-use development on a 7.26-hectare site at 90 Croatia Street, which

is immediately to the north of the Dufferin Mall development site. That proposal, currently being considered by the Local Planning Appeal Tribunal, includes six buildings between six and 47 storeys, 2,219 condominium units, 15,780 square metres of retail / commercial space, 4,900 square metres of office space, and 2,815 square metres for a

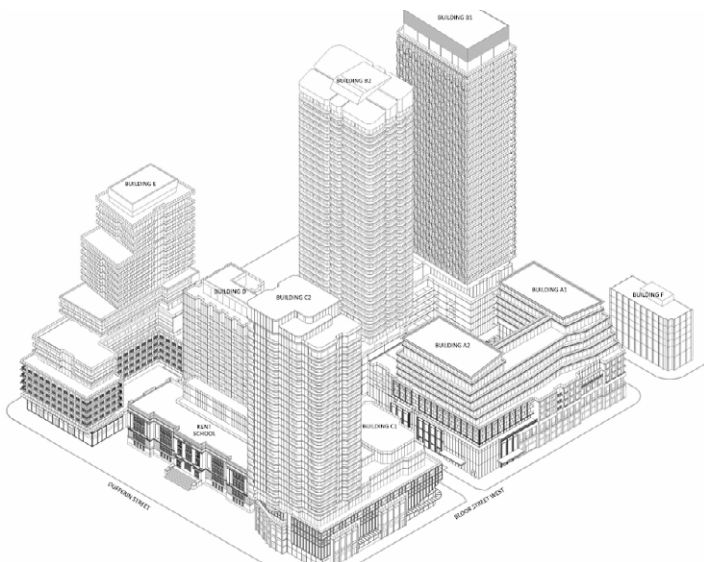
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Below: Renderings of the apartment towers and at-grade retail that would be built at Dufferin Mall.

SOURCE: PRIMARIS MANAGEMENT
ARCHITECT: QUADRANGLE

Left: Massing diagram of Capital Developments’ and Metropia’s development proposal at 1141 Bloor Street, immediately north of the Dufferin Grove Village site.

SOURCE: CITY OF TORONTO
ARCHITECT: HARIRI PONTARINI ARCHITECTS



COMMUNITY-FOCUSSED REDEVELOPMENT

■ CONTINUED FROM PAGE 6

community hub. It also includes a 3,580 square metre public park that is the main source of concern regarding the possible impact of shadow effects from the proposed Dufferin Mall towers. The existing building on the site, the now vacant Bloor Collegiate Institute, would be demolished.

The proposed sudden influx of additional retail space is concerning to existing local businesses, **Bloordale BIA** chair **Liza Lukashevsky** told *NRU*. Lukashevsky also owns the independent health food store, **Nuthouse**, at 1256 Bloor Street West.

“There are small mom-and-pop produce stores and a small drugstore that will suffer if they put in a **Shoppers Drug Mart** and a **Loblaws**,” she says. “The trend seems to be that people that live in high-rises tend to do their shopping in high-rises. A lot of these condo developments almost become like suburbs... people drive in, and they drive out.”

She says that it would be more beneficial for the community if the areas planned for retail were used for other purposes, such as community space or offices. Kingston said that Primaris is open to exploring alternatives to

additional retail on the site.

The Capital / Metropia development, as well as other nearby intensification projects, raise concerns about whether the area is able to handle the level of intensification. Dufferin subway station is already near capacity at peak commuting times, as is the Dufferin bus. Both Dufferin and Bloor Street also experience major traffic congestion through most of the day, especially at peak times. Brown says residents also feel that the existing Dufferin Grove Park, a public park on the other side of Dufferin from the mall, already cannot adequately support all the residents who want to use it.

“There’s a lot of concerns about the services, and I think as these developments start coming online, there’s going to be a bigger issue, whether it be transit, the water servicing in the area, the roads... are already in horrible shape... and the TTC has no planning for [increased capacity],” he says.

Hatcher says the city has not yet received reports on servicing, transportation, and similar aspects that will be affected by the development, but that he agrees that these are major issues that will need to be addressed.

Kingston says that there may be ways to alleviate some of the pressure on the intersection and in the immediate area. In particular, he points to an underground pedestrian connection between Dufferin Station and the Metropia / Capital development which Primaris may connect through the developments all the way to the mall. The sidewalk is also proposed to be widened along Dufferin in both the mall and Metropia / Capital development from 1.8-metres to up to six-metres, meaning there will be a wide concourse from Bloor Street to Dufferin Grove Park.

“I think more important than all of that is this pedestrian connection that we’re building, which would be the extension of Russett Avenue to the south of Bloor,” he says. “That... retail high street that Capital [and Metropia are] building and that we are looking to extend all the way down to Dufferin Grove [is] a massive improvement from a pedestrian perspective. I think we’re going to see an enormous shift in terms of... people avoiding Dufferin and going over to Russett.”

Lukashevsky adds that a bridge should be built between Dufferin Grove Park and the mall to further improve those connections.

The most important aspect of the redevelopment from Primaris’ perspective is ensuring that Dufferin Mall continues to be a central hub for both the community and the city, says Kingston. The mall

receives over 10-million visitors annually, and is an important gathering point for residents. Kingston says that the ultimate goal is to use the redevelopment to enhance the neighbourhood as much as possible.

“I think the biggest things are making sure that we continue to fit into the community and add to it,” he says. “I think we’re very lucky today and we’re very, very proud to have what we have in the community. And we just want to keep improving that and make it better. And this isn’t a flash thing, it’s a long-term vision that we have for this. We want to be sensitive to looking to do things for this neighbourhood to make it better.” 🌸

DANGEROUS PRECEDENT?

CONTINUED FROM PAGE 1

downtown for an exclusively public purpose, it can do so on any other property in Toronto.

The tribunal was not dealing with CRAFT's private application. Members were only asked to look at the planning merits of OPA 395. In its decision, the tribunal agreed with the testimony of the city's expert witness, **Urban Strategies** partner **Joe Berridge**, that the site is located in an urban growth centre on a priority transit corridor within a major transit station area and that a large public park would meet the definition of a major trip generator. The Growth Plan also notes the importance of investment in public service facilities in or near strategic growth areas.

Calling the plan "a bold move that will respond to a very serious issue of parkland deficiency in the Downtown," the tribunal concluded that OPA 395 is consistent with and conforms to provincial policies.

"I don't believe for a minute that OPA 395 met provincial policy because what it did was, it permitted only one use, a public use, without the city being committed to buy it. So for as long as the

city wanted to wait to buy it or expropriate it, nothing could be built there. And this is the site that is directly adjacent to the new Spadina GO station and it's on the Lakeshore West GO line, which if I'm not mistaken might be the busiest line of Metrolinx. So if you don't build anything right next to the transit station, how does that conform with provincial policy?" noted Kagan.

Toronto and East York District community planning director **Lynda Macdonald** told *NRU* the need for parkland in the downtown core is crucial to balancing the growth of high-rise residential and commercial development in the core, which is a requirement in the Growth Plan.

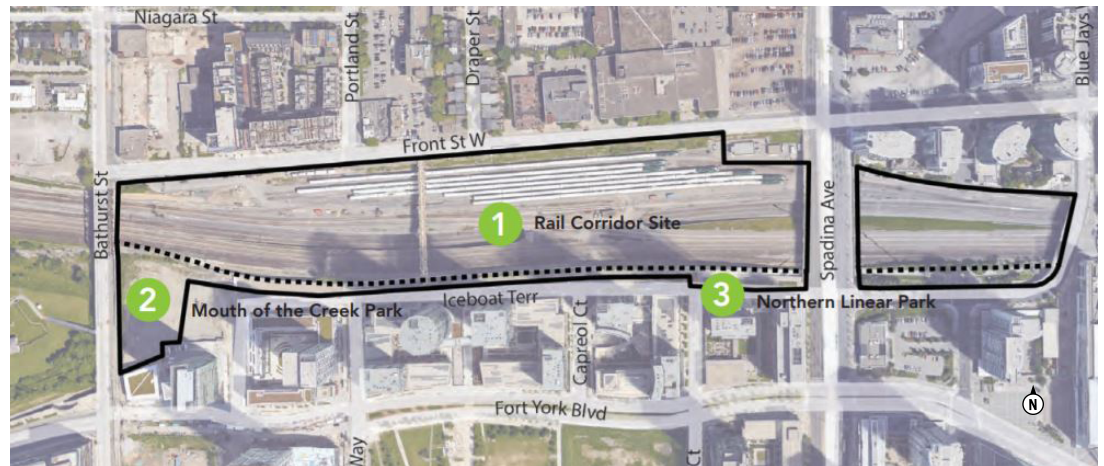
"We all know the amount of growth that's happening downtown and the amount of investment the private sector is making in Toronto and the confidence they have in the city, but that is partially based on the city being able to deliver the kinds of infrastructure and community

services and all those amenities that make Toronto such a great place, but we have to keep adding them," she said.

City of Toronto solicitor **Brendan O'Callaghan** stressed that land development is a "risky business", adding CRAFT purchased air rights over a utility corridor that does not currently allow for mixed-use development.

"What they owned, what they continue to own, is a utility corridor. It's designated a utility corridor, it's zoned for transportation uses. They

CONTINUED PAGE 9



Map of the proposed Rail Deck Park study area, located on the Railway Lands between Bathurst Street and Blue Jays Way.

SOURCE: URBAN STRATEGIES INC.

Rendering of the "ORCA Project", a proposal by CRAFT Acquisitions Corp. and P.I.T.S. Developments to build eight buildings over the existing active rail corridor.

SOURCE: R.E. MILLWARD + ASSOCIATES LTD.

DANGEROUS PRECEDENT?

■ CONTINUED FROM PAGE 8

have no permissions in that corridor today other than a transportation corridor which it will continue to remain,” he said.

“I’m not suggesting the city does not have to acquire these rights. We do have to acquire these rights. But at the end of the day, we didn’t take anything away from CRAFT in the sense that CRAFT didn’t have any development permissions, not in the Official Plan, not in the zoning bylaw, so I don’t believe it’s a dangerous precedent. I believe that it’s an appropriate planning decision when you consider the policy framework within which the tribunal had to work.” The policy framework O’Callaghan referenced was Bill 139, which amended a number of acts including the *LPAT Act*, 2016. One of the main differences between the planning appeals process before and during the Bill 139 era is that appeals that dealt with the same property could no longer be considered during the same hearing under Bill 139.

“In the pre-Bill 139 days, what would have happened is the two appeals [OPA 395 and CRAFT’s development application] would have been

put together and heard by the tribunal at the same time which does seem to make some logical sense in that you’re dealing with the same piece of property – same deck in the air,” said **Devine Park LLP** founding partner **Patrick Devine**, planning counsel for **Metrolinx** who had participant status in the proceedings.

“Given the fact that under Bill 139 they were to be kept strictly separate and apart and no consideration was to be given in the context of the OPA 395 hearing as to this other proposal, which is on another tract, then it seems that this was probably the only reasonable decision the tribunal could have come to given the restrictions that were imposed on it by Bill 139.”

And considering that the tribunal was limited to reviewing OPA 395 based on consistency and conformity with provincial policies and not necessarily on the merits of “good planning”, Devine said it would have been difficult for the tribunal to come to any other decision. “The flip side of that, for those people that were surprised by the decision, that’s why a number of people feel that

the Bill 139 restrictions were not appropriate. That’s why the new government brought in Bill 108. So I think it’s a matter of putting the decision in context and the specific context is...the somewhat limited decision-making power that the tribunal has under Bill 139,” he noted.

Although the tribunal could not mandate a time frame for when the city would have to purchase the lands from CRAFT, the decision did speak to the importance of the city acquiring the lands to build Rail Deck Park.

“Of course, the preferred method of acquisition would be a transaction negotiated between the City and the appellants on a consent basis. Nonetheless, the City being a municipality, has the authority of expropriation. So, the City cannot demur here and allege an inability to acquire the property interest necessary to accommodate the project,” reads the decision.

O’Callaghan told *NRU* the city is in the process of determining the land value before it can proceed with negotiations.

“We absolutely have every plan to advance discussions and negotiations with CRAFT such that the city can acquire it. That is certainly our hope. We expect it will take some time, but that is the city’s plan,” he said.

CRAFT is considering whether to appeal the tribunal’s decision. CRAFT’s

private development application will be heard over a 45-day period starting in November 2020. In its ruling, the tribunal emphasized the need for that application to be considered independent of the OPA 395 decision.

NRU publisher Ian Graham is a planning consultant representing CRAFT Acquisitions and P.I.T.S. Development on the Rail Deck Park appeal. 🌸

A FIRST STEP

■ CONTINUED FROM PAGE 2

own procurement processes. And we want them to be able to refer back to a specialized coordinator at the city who can help them implement whatever city initiatives they want to apply for those projects.”

The community benefits framework complements the city’s Innovation, Manufacturing, Imagination, and Technology program, which gives private developments tax incentives to achieve similar objectives.

Community benefits agreements are an important tool to ensure that community and city-wide needs are met through city-initiated developments. They outline specific social and economic targets that the city or other municipal development agencies will need to achieve in order to address important issues. Despite the title, the community benefits referred to in the framework are unrelated to *Section 37* benefits, and would not be directly affected by any changes to the *Planning Act*.

The agreements are intended to promote social and economic inclusion, engage and involve communities in local municipal development projects, and ensure that the benefits process is

transparent and accountable to its stakeholders. The benefits target equity-seeking communities, women, immigrants, racial minorities, and members of the LGBT community, as well as Indigenous people.

Precarious employment is also a concern the benefits framework is intended to address. Precarious employment is non-standard employment that is often poorly paid and has a high degree of job insecurity. It disproportionately affects those equity-seeking communities. In 2015, 40 per cent of workers in the GTHA worked in some form of precarious employment, according to a study conducted by **Poverty and Employment Precarity in Southern Ontario**.

“The [framework] report is the important first step to... give the city staff to get the internal business in order so that they can maximize public dollars for the greater good of equity-seeking groups through the principles and values of a community benefits framework,” **United Way Greater Toronto** community opportunities and mobilization vice-president **Nation Cheong** told *NRU*. “The report in and of itself talks about

leveraging... existing programs within the City of Toronto, and its purchasing power—certainly in areas of development and social procurement—to ensure that equity-seeking job-seekers or marginalized job-seekers have greater opportunity to access training and careers through community and city investments, and further, that small businesses that are represented from equity-seeking groups also have a fair shake at city contracts.”

A community benefits agreement is needed to address poverty, systemic economic, racial, and gender inequalities, and a rise in precarious work. There is particular concern regarding income inequality along racial lines, with a recent [United Way Greater Toronto report](#) finding that racialized residents in the GTHA make 52.1 cents per every dollar earned by white residents.

The framework has three main aspects which seek to address those inequalities.

The first is to ensure that construction workforces include members of the communities of those marginalized communities by requiring that companies working on city projects meet employment targets to ensure that adequate numbers of community members are employed.

“You have a real need in terms of talent in a significant industry [due to] a retiring workforce,” says Cheong. “The construction industry, generally speaking, is a fairly homogeneous industry... the culture within the construction industry [is] male, predominantly European... and the potential workforce to get into those trades are the Somali community, indigenous community, women in trades.”

The second aspect of the framework is targeting diversified suppliers—companies that employ over 50 per cent from marginalized communities, or are majority

CONTINUED PAGE 11 ■

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A FIRST STEP

■ CONTINUED FROM PAGE 10

owned by members of those communities. This aspect of the framework will rely primarily on the city's existing social procurement policy. The third aspect of the framework is involving the local communities where the development projects are taking place to ensure that their priorities are met through the project.

The framework also lays out a series of steps for implementation, including the establishment of a community benefits coordinator at the city to oversee the overall program, the development of a data tracking system to monitor the program and assess outcomes, enhancement of community engagement in the program, the establishment of a community benefits advisory group, and the optimization of hiring pathways for companies looking to develop their workforces to meet diversified supplier requirements.

Baker says a significant concern with the framework is the focus on workforce development and social procurement, which ignores several other important aspects of community benefits frameworks.

"This is only focussed on one aspect of community benefits," he says. "We also

understand with community benefit agreements, it does much, much more. And our experience in getting other community benefits, whether it be a child-care facility or whether a neighbourhood and environmental improvements, looking for... affordable housing, all those other community benefits are also important. And this doesn't really spell out much in terms of those areas."

He adds that other municipalities, especially in the United States, have significantly higher employment requirements than Toronto and that the city should be more ambitious if the overall goals are to be achieved. The social procurement policy requires that hard targets be set for workforce development projects, but does not set a baseline in most cases.

"We want to get to... 10 per cent [minimum equity-seeking employees]," he says. "But we also understand that implementing this is going to take a bit more time... when it comes to the construction industry, it's more of a pathway of getting people into the industry."

One of the most significant examples of a community benefits agreement is at the Woodbine Racetrack at 555

Rexdale Boulevard. The 684-hectare racetrack and casino is being redeveloped by **One Toronto Gaming** into a dense urbanized "gaming district" including building two hotels, nine restaurants, a performance centre, an employee training area, and new retail and office uses, as well as expanding the casino. The redevelopment is expected to be completed in 2025, and could yield more than 3,500 jobs.

The redevelopment includes a community benefits agreement which commits the project to at least 40 per cent social hiring—members of equity-seeking groups—or local hiring and 20 per cent local hiring specifically, 40 per cent full-time jobs, 10 per cent annual local or social procurement, and a dedication of \$5-million towards the construction of a childcare centre for the community.

City of Toronto staff declined to be interviewed for this article by deadline. 🌸

LPAT NEWS

RAIL DECK PARK OPA APPROVED

In a July 11 decision, LPAT vice-chair **Susan de Avellar Schiller** and members **Chantelle Bryson** and **Gerald Swinkin** dismissed appeals by **CRAFT Acquisitions Corporation** and **P.I.T.S. Development** (CRAFT) as well as **Canadian National Railway** and **Toronto Terminal Railway Company** (CNR/TTR) against the **City of Toronto's** adoption of Official Plan Amendment 395, which sets the policy framework for Rail Deck Park.

The proposed Rail Deck Park consists of an elevated, decked structure encompassing about 8.5 hectares over the Union Station Rail Corridor (USRC) between Bathurst Street in the west and Blue Jays Way in the east, accommodating a new public park.

CRAFT, which owns a strata property interest above USRC that corresponds substantially

with the Rail Deck Park boundary, appealed council's decision to adopt OPA 395. CRAFT has applied for an official plan amendment for a mixed-use development consisting of eight buildings and a park space over the rail corridor. Council refused CRAFT's OPA application, and CRAFT's appeal of that refusal is before the LPAT under a separate hearing stream.

After receiving procedural guidance from the Divisional Court and Superior Court of Justice with respect to LPAT's jurisdiction to examine witnesses, the tribunal heard evidence from planner **Ian Graham (R.E. Millward + Associates)** on behalf of CRAFT, consultant planner **Joe Berridge (Urban Strategies)** who was retained by the city, and city planners **Lynda Macdonald**, **Paul Mulé** and **Heather Oliver**.

On behalf of the city, Berridge testified that OPA

395 will protect the long-term rail infrastructure uses within the USRC while providing above it a significant new public park in a high-growth urban area. He noted that the existing Railway Lands West and Central Secondary Plans contemplate decking above the USRC subject to studies and land use considerations. The city concedes that it will need to acquire CRAFT's property interest in order for Rail Deck Park to proceed.

CRAFT opposed OPA 395 on the basis that it superseded the existing policy framework embedded in the Railway

Lands West and Central Secondary Plans which, in its submission, supported CRAFT's development proposal and site-specific OPA application.

Quoting from the LPAT decision, CRAFT maintained that "Unless and until the City has committed itself to acquisition of the Strata Property Interest, it is premature and prejudicial to the parties who hold the Strata Property Interest to derogate from their opportunity to pursue an alternative development proposal (para. 70)."

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LPAT NEWS

CONTINUED FROM PAGE 12

The tribunal ultimately concluded that “While the acquisition of the Strata Property Interest is key to the implementation of the Rail Deck Park that is contemplated by OPA 395, the central issue before the Tribunal is whether OPA 395 meets the necessary statutory requirements *without* acquisition of that property interest. The tribunal found that it does (para. 88).”

The tribunal dismissed CRAFT and CNR/TTR’s appeals, and upheld OPA 395.

Solicitors involved in this decision were city solicitors **Brendan O’Callaghan** and

Nathan Muscat representing the City of Toronto, **Ira Kagan** and **Kristie Jennings (Kagan Shastri)** representing CRAFT Acquisitions Corporation and P.I.T.S. Development Inc., and **Alan Heisey** and **Michael Krygier-Baum (Papazian Heisey Myers)** representing Canadian National Railway Company and Toronto Terminal Railway Company Ltd. [See LPAT Case No. [PL180210](#).]

SETTLEMENT APPROVED FOR HIGHLAND CREEK DEVELOPMENT

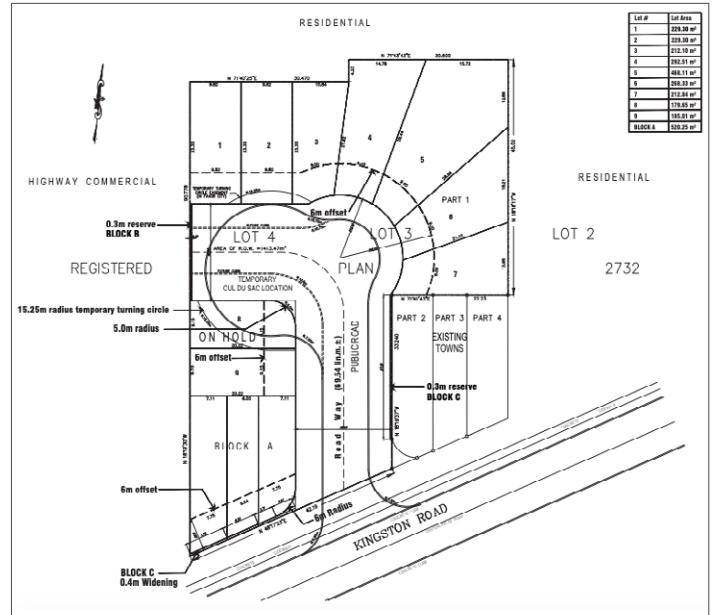
In a July 4 decision, LPAT

member **Mary-Anne Sills** allowed appeals, in part, by **Bellegate Developments** and **Gates of Humber Ridge** (the developer) against the **City of Toronto’s** failure to make decisions on its rezoning

and draft plan of subdivision applications for 6480, 6482 and
CONTINUED PAGE 14

Plan of subdivision for proposed development at 6480, 6482 & 6486 Kingston Rd.

SOURCE: URBAN GROWTH INC.



Request for Expressions of Interest

Waterfront Redevelopment opportunity

The Town of Wasaga Beach is currently accepting Expressions of Interest for the purchase and development of town-owned lands at Beach Area 1.

The deadline to submit Expressions of Interest is **2:00 p.m. Friday, Aug. 2, 2019**.

The Request for Expressions of Interest (RFEI) document is available at the CAO’s Office or on the Town’s website.

To learn more about this opportunity, visit www.wasagabeach.com.



For additional information, please contact:

Pam Kenwell, Executive Assistant to the Mayor, CAO and Council at 705-429-3844, ext. 2246 or email at eamc@wasagabeach.com

TLAB NEWS

WILLOWDALE CONSENT AND VARIANCES REFUSED

In a July 12 [decision](#), TLAB chair **Ian Lord** allowed an appeal by the **City of Toronto** against the Toronto committee of adjustment's approval of consent and minor variance applications by **Ali Reza Rahmanian** for 37 Stafford Road.

Rahmanian proposed to sever the existing property into two lots with frontages of 10.1 metres and lot areas of approximately 400 m². The applicable zoning by-law provisions set a minimum frontage of 15 metres and a

minimum lot area of 550 m². New dwellings were proposed to be built on each lot.

The city's appeal focused on the substandard lots that would be created by the consent, rather than the particular built form to be deployed in the new construction. The city was supported by the testimony of planner **Eno Udoh-Orok**, who testified against the consent and variances on the basis that the new lots would be among the narrowest in the neighbourhood. She presented a study area within which she demonstrated that a very high proportion of lots meet or exceed the zoning standards.

Planner **Franco Romano** (**Action Planning Consultants**) attended on behalf of Rahmanian, in support of the consent and variances and in opposition to the city's appeal. He testified that the existing 20.2-metre-wide lot is among the largest in the area, and is a suitable candidate for severance into two lots that would continue to respect and reinforce the neighbourhood character.

The TLAB agreed with the city, finding that the existing property contributes to the streetscape and that the proposed, deficient

lots would create a jarring transition. The TLAB also noted that intensification in the neighbourhood has occurred in the form of renovations, additions, and new construction, but generally has not occurred through severances.

The TLAB allowed the city's appeal, refusing the consent and variances.

Solicitors involved in this decision were **Matthew Di Vona** (**Di Vona Law**), representing Ali Reza Rahmanian and city solicitor **Ben Baena**, representing the City of Toronto. 🌸

LPAT NEWS

■ CONTINUED FROM PAGE 13

6486 Kingston Road.

The developer proposes to build an infill subdivision consisting of three freehold townhouses fronting onto Kingston Road, and nine single detached dwellings fronting onto a new 18.5-metre public cul-de-sac roadway.

The tribunal was advised that the appeals were settled, and planner **Randal Dickie** (**PMG Planning Consultants**) attended the hearing on behalf of the developer. Dickie explained that the subject

site is classified as a Class 4 area under **Ministry of Environment, Conservation and Parks** Environmental Noise Guidelines, and that an acoustical barrier will be constructed to mitigate potential noise and compatibility issues associated with adjacent industrial properties to the west.

Overall, Dickie found the proposed development to represent sensitive infill development that conforms with the applicable Highland

Creek Community Secondary Plan and other applicable planning policies.

The tribunal accepted Dickie's evidence and allowed the appeals, in part.

Solicitors involved in this decision were **Andrea Skinner** (**Aird & Berlis**) representing Bellegate Developments Ltd. and Gates of Humber Ridge

Inc. and city solicitor **Sarah O'Connor** representing the City of Toronto. [See LPAT Case No. [PL171480](#).] 🌸

REMINDER: To be included in NRU's 2018/2019 City of Toronto Law Review Ranking of the top-10 development law firms, LPAT and TLAB decisions must appear in NRU's Toronto Edition **no later than July 26**.