

City of Mississauga Department Comments

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| Date Finalized: 2022-02-23 | File(s): B9.22 Ward 5 |
| To: Committee of Adjustment | |
| From: Committee of Adjustment Coordinator | Meeting date:2022-03-03 1:00:00 PM |

Consolidated Recommendation

The City has no objections to the application.

Application Details

The applicants request the approval of the Committee to sever a parcel of land for the creation of a new lot and easements. The parcel of land has a frontage of approximately 71.8m (235.6ft) and an area of approximately 4.53ha (11.19 acres).

Recommended Conditions and/or Terms of consent

- Appendix A – Conditions of Provisional Consent

Background

Property Address: 3160 Derry Road East

Mississauga Official Plan

Character Area: Northeast Employment Area
Designation: Business Employment

Zoning By-law 0225-2007

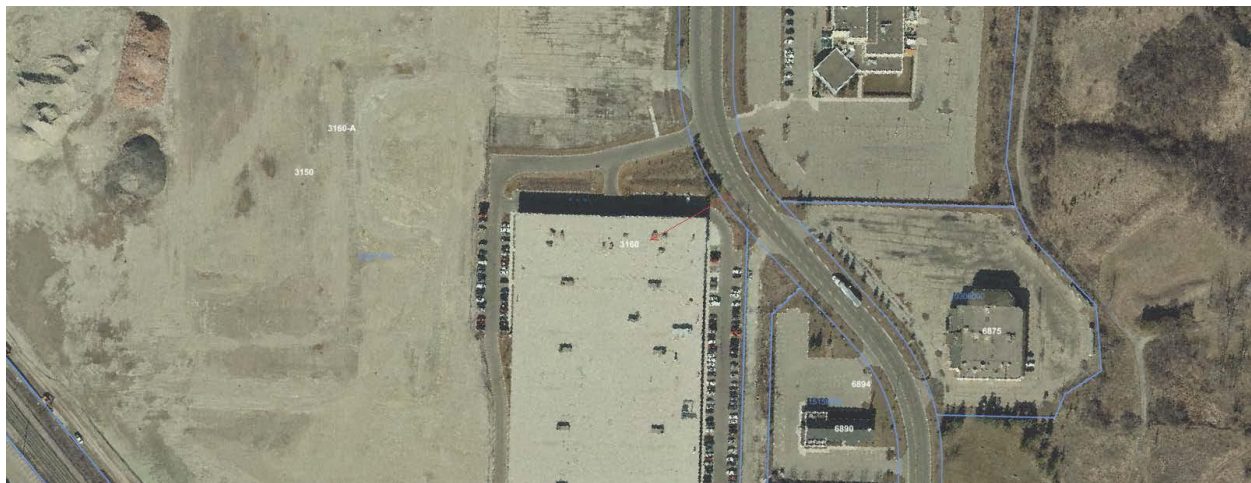
Zoning: E2 - Employment

Other Applications: None

Site and Area Context

The subject property is located on the south-west corner of the Derry Road East and Professional Court intersection. Currently it contains a two storey industrial building with an associated parking lot and a large vacant area. No vegetation elements are present on the subject property. The surrounding area context is predominantly industrial with lots of varying sizes. Parkland is also present in the surrounding area and the Malton GO station abuts the property to the west.

The applicant is proposing to sever the existing property into 2 lots for employment purposes.



Comments

Planning

Planning Act

Section 51 (24) of the *Planning Act* sets out the criteria for land division in the Province of Ontario. In evaluating such requests, the Committee needs to be satisfied that the proposal meets not only the criteria set out under Section 51(24), but also municipal requirements identify in local legislation.

The Provincial Policy Statement 2014 (PPS 2014) and Growth Plan for the Greater Golden Horseshoe promote efficient development and land use, directing the focus towards intensification and redevelopment. The proposal is consistent with the general directive in provincial policy.

Staff comments concerning the application for consent are as follows:

The subject property is located in the Northeast Employment Character Area and is designated Business Employment in Schedule 10 of the Mississauga Official Plan (MOP). The Business

Employment designation permits a variety of employment uses as proposed by the applicant for the severed lands. Section 9 of MOP promotes development with appropriate urban form and site design, regulating that such development is compatible with the existing site conditions, the surrounding context, and the landscape of the character area.

Staff are satisfied that the application is consistent with the Official Plan as the severed and retained lots are appropriately sized and are suitable for the proposed use. Furthermore staff have no concerns with the severance regarding the criteria set out in Section 51(24) of the Planning Act as the site is able to be appropriately serviced and is suitable for the planned use of the property. The proposed easements ensure the functionality of the site will not be impacted by the proposed severance. Staff are therefore of the opinion that the application conforms to Section 51(24) of the Planning Act.

Comments Prepared by: Alexander Davies, Committee of Adjustment Planner

Appendices

Appendix 1 – Transportation and Works Comments

The subject property was previously the subject of a similar Consent application file 'B' 27/19 but expired prior to the conditions being satisfied. We also note that under an earlier Consent Application File 'B'21/15, environmental contamination issues were identified on the lands and satisfactory arrangements were made with the City through an Agreement with securities to allow for the approval of that previous severance application.

This department has reviewed the submitted information and also the Due Diligence Risk Assessment reports (DDRA) and provide the following comments for the applicant:

- It is noted that the Phase Two Conceptual Site Models (CSMs) provided in Appendix C.1 in each of the two DDRA reports present the soil vapour, soil and groundwater data, along with plan-view drawings showing the Areas of Potential Environmental Concern and inferred horizontal extents of soil and groundwater impacts, and cross-section drawings, as previously requested by the City. However, there are 'Draft' watermarks on the pages, please confirm if the Phase Two CSM documents have been finalized and if so, provide a final copy to the City for review.
- It is noted that the Risk Management Plans and associated Risk Management Measures provided in the DDRA reports are generally appropriate for the identified contaminants.
- The "Groundwater Quality Investigation – Leased Lands, 3160 Derry Road East, Mississauga, Ontario" report, prepared by GHD Limited and dated January 21, 2020, indicated that based on the measured water levels in December 2019 and January 2020, the direction of groundwater flow was generally to the southeast. It is unclear if the indicated groundwater flow direction was in reference to the plan north or true north. The Phase Two CSMs indicated that groundwater flow direction was to the east (in reference to plan north) based on measured water levels in May and June 2021. Please clarify about the (seasonal) groundwater flow direction with respect to true north or plan north and provide figures showing the December 2019 and January 2020 groundwater contours for review. This has implications on the determination of potential off-site receptors.
- The Phase Two CSM for the Development Lands described the mounding of the groundwater table in the southern portion observed from the May and June 2021 data. Please confirm whether further groundwater monitoring has been completed since May/June 2021 to assess the influence of the Storm Sewer Remediation on the seasonal groundwater flow direction. This groundwater mounding should be discussed in the Phase Two CSM for the Leased Lands, as this is primarily located within the Leased Lands and not the Development Lands.
- The data points used to infer the horizontal and vertical extent of soil and groundwater impacts appear to be inappropriate in consideration of the sample depths or well screen

intervals at certain locations. Please provide further justification that all identified contaminant exceedances have been sufficiently delineated both horizontally and vertically.

- For example concerning horizontal delineation, on the Development Lands, a trichloroethylene (TCE) exceedance was reported for soil sample MW116-17 at a depth interval of 3.05 to 3.66 m. Sample locations SVP04-21 and MW17-21 (located to NNW and N of MW116-17, respectively) are used to delineate the horizontal extent of the TCE exceedance, however the soil data from both locations were collected at much shallower depths than the TCE exceedance at MW116-17 (0 to 0.61 and 0.9 to 1.5 m below grade, respectively). Please clarify and update the figures accordingly to clearly show the data used to determine the horizontal extents. This may affect the extent of the areas requiring risk management measures to protect the health and safety of future occupants.
- For example concerning vertical delineation, on the Development Lands, a benzene exceedance was reported for soil sample BH20-15 at a depth interval of 3.00 to 3.60 m; however, there are no soil samples collected at this depth interval or deeper to provide vertical delineation, as shown on Figure 21 in Appendix C.1. The two sample points used were collected at much shallower depths (BH6-21 at 0.00 to 0.61 m, and MW9-21 at 0.61 to 1.22m). As another example, petroleum hydrocarbon (PHC) exceedances were reported for a groundwater sample collected at MW12-21 (screen interval of 1.83 to 4.88 m), but there are no deeper wells to vertically delineate PHC impacts in this area, as shown on Figure 29 in Appendix C.1.
- Please comment on the appropriateness of using only MW103-17 and MW103D-17 data from 2017 to determine the vertical hydraulic gradient. It is noted the two wells are located at the southern boundary of the Development Lands. In addition, please comment on the appropriateness of using only the soil and groundwater data at MW103D-17 from 2017 for vertical delineation of soil and groundwater impacts in this area. It is noted that groundwater data at MW2-15 from 2015 was also used. Include justification why deeper or nested wells were not installed as part of the recent work to sufficiently characterize the groundwater impacts on these lands.
- Please provide a copy of the remediation reports (prepared, signed and dated by a Qualified Person as defined by Section 5 and 6 under Ontario Regulation 153/04) with figures showing the floor and wall sample locations and results for the City to review.
- Please confirm whether any recent sewer sampling has been completed since the remedial activities were undertaken at the Development Lands.

Should Committee see merit in the subject application, we are providing the following conditions/requirements that will have to be addressed to the satisfaction of this department prior to the issuance of final consent:

A. **Items Required Prior to the Issuance of Final Consent**

1. Satisfactory Responses to the Due Diligence Risk Assessment Reports Required

This department requests that satisfactory arrangements/responses be provided for further review with respect to our initial comments on the Due Diligence Risk Assessment reports (dated October 4, 2021).

The City reserves the right to retain an independent peer reviewer to review the Due Diligence Risk Assessment reports (dated October 4, 2021) and subsequent environmental reports associated with this application at the expense of the applicant.

The scope of work to meet the requirements for Monitoring and Maintenance under the Risk Management Plan, including the rationale for the selection of number, location and depth of soil vapour and/or groundwater samples, must be submitted to the City for review.

Written confirmation that the Risk Management Measures for the Leased Lands and Development Lands, including as-built and cross-section drawings showing the extents and/or depths of the Risk Management Measures, as constructed, satisfy the requirements of the Risk Management Plan objectives as specified in the Due Diligence Risk Assessment reports (dated October 4, 2021), must be submitted to the City for review. The confirmation must be signed, sealed and dated by a Qualified Person (as defined under section 5 and 6 under Ontario Regulation 153/04, as applicable).

2. Execution of a Development Agreement and provisions for Securities

This department will require the execution of an Agreement between Derry (ARI) Ltd. & Derry Aero Inc. and the City of Mississauga and for the provision of securities (to the satisfaction of the City) to address any environmental concerns associated with the subject property and also to address any potential off site contamination within the City's storm sewer easement, if required.

Securities will be required to the satisfaction of the Transportation and Works Department to ensure completion of the environmental works such as the installation and implementation of the Risk Management Measures, including the monitoring and maintenance requirements, as described in the Due Diligence Risk Assessments (dated October 4, 2021) for the Leased Lands and Development Lands. These securities will be returned upon final approval and certification. A cost estimate must be provided by an environmental consultant and approved by the City.

3. Establishment of Storm Easement

As indicated in the information submitted a private storm sewer easement will be required. We believe this storm easement will be Parts 4 and 5 on the Draft 43R-Plan submitted. This is required as there is currently there is a storm sewer servicing the retained lands which will traverse the proposed severed lands. In this regard, satisfactory arrangements will have to be made with this department for the establishment of the required storm sewer easement.

4. Establishment of Access/Right-of Way Easements

As indicated in the information submitted access/right-of-way easements will be required and we believe that these will be Parts 2,9,10 and 11 on the Draft 43R-Plan submitted. A Site Plan depicting the exact location of the access locations will be required in order to compare it to the proposed Parts on the 43R-Plan.

5. Draft Reference Plan

The applicant has provided a draft reference plan for our review/approval which depicts the parts designated for the proposed storm and shared access easements/rights-of way. At this time, we are uncertain if any revisions will be required to the submitted Draft 43R-Plan.

6. Required Easement(s)

The applicant/owner is to provide a letter prepared by their Solicitor that describes the new private easement(s) to be established for access and servicing purposes. It should be acknowledged that any documentation received will be forwarded as an attachment to our clearance memo to the Committee of Adjustment so that any new proposed private easement(s) can be identified and also be incorporated into the Certificate of Secretary-Treasurer.

Comments Prepared by: Tony Iacobucci, Development Engineering Technologist

Appendix 2 – Zoning Comments

We have no objection to the consent application provided that the severed and retained lands comply with the provisions of Zoning By-law 0225-2007, as amended, with respect to, among other things, minimum lot frontage, minimum lot area, setbacks to the existing building(s), on site parking, etc., or alternatively, that any minor variance(s) is approved, final and binding and/or the demolition of any existing building(s) is complete.

We further advise that the proposed lot frontage is to be calculated in accordance with the following definition:

- *The applicant is advised that Lot Frontage means the horizontal distance between the side lot lines and where these lines are not parallel means the distance between the side lot lines measured on a line parallel to and 7.5 m back from the front lot line.*

Comments Prepared by: Brandon Eidner, Zoning Examiner

Appendix 3 – Parks, Forestry & Environment

The Park Planning Section of the Community Services Department has reviewed the consent application and advises as follows.

Given the property is subject to site plan control, should the application be approved, Community Services provides the following notes:

- Tree preservation hoarding and securities may be required as part of the site plan control process.
- Payment for street tree fees and charges may be required as part of the site plan control process.
- Prior to the issuance of building permits, cash-in-lieu for park or other public recreational purposes is required pursuant to Section 42 of the Planning Act (R.S.O. 1990, C.P. 13, as amended) and in accordance with the City's policies and by-laws.

Should further information be required, please contact Jim Greenfield, Park Planner, Community Services Department at 905-615-3200 ext. 8538 or via email jim.greenfield@mississauga.ca.

Comments Prepared by: Jim Greenfield, Park Planner

Appendix A – CONDITIONS OF PROVISIONAL CONSENT

SHOULD THE COMMITTEE GRANT A PROVISIONAL CONSENT, THE FOLLOWING IS A LIST OF THE RECOMMENDED CONDITIONS TO BE ATTACHED TO THE DECISION AND THESE CONDITIONS MAY BE REVISED BY THE COMMITTEE AT THE PUBLIC MEETING.

1. Approval of the draft reference plan(s), as applicable, shall be obtained at the Committee of Adjustment office, and; the required number of prints of the resultant deposited reference plan(s) shall be received.
2. An application amendment letter shall be received from the applicant or authorized agent confirming that the conveyed land shall be together with and/or subject to services easement(s) and/or right(s)-of-way, if necessary, in a location and width as determined by the Secretary-Treasurer based on written advice from the agencies having jurisdiction for any service or right for which the easement or right-of-way is required; alternatively, a letter shall be received from the applicant or authorized agent confirming that no services easement(s) and/or right(s)-of-way, are necessary.
3. A letter shall be received from the City of Mississauga, Manager of Zoning Plan Examination, indicating that the conveyed land and retained lands comply with the provisions of the Zoning By-law, or alternatively; that any variances are approved by the appropriate authorities and that such approval is final and binding.
4. A letter shall be received from the City of Mississauga, Transportation and Works Department, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated 2022-02-23.