

City of Mississauga

Corporate Report



<p>Date: December 20, 2023</p> <p>To: Chair and Members of Planning and Development Committee</p> <p>From: Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building</p>	<p>Originator's file: OZ 14/001 W3</p>
	<p>Meeting date: January 8, 2024</p>

Subject

PUBLIC MEETING RECOMMENDATION REPORT (WARD 3)

Official Plan Amendment and Rezoning applications to permit a 6 storey apartment building with ground floor commercial uses

971 Burnhamthorpe Road East, northeast corner of Burnhamthorpe Road East and Tomken Road

Owner: Reza Tahmasebi

File: OZ 14/001 W3

Pre-Bill 109

Recommendation

1. That Council approved resolution PDC-0059-2016 for 971 Burnhamthorpe Road East, under File OZ 14/001 W3, be reinstated.
2. That notwithstanding Council's approval of the applications to amend the Official Plan and Zoning By-law for 971 Burnhamthorpe Road East, under File OZ 14/001 W3, in accordance with the provisions contained in the staff report dated June 7, 2016 from the Commissioner of Planning and Building, that Council direct the Planning and Building Department to apply an "H" holding provision to the proposed **C4-Exception** (Mainstreet Commercial) zoning applicable to the subject lands.
3. That the "H" holding provision be removed from the **H-C4-Exception** (Mainstreet Commercial) zoning applicable to the subject lands, by further amendment upon confirmation from applicable agencies and City Departments that matters as outlined in the staff report dated December 20, 2023, from the Commissioner of Planning and Building have been satisfactorily addressed.

4. That City Council direct the applicant to satisfy all requirements of the City and any other external agency concerned with the development.

Executive Summary

- Applications to permit a six storey apartment building with 52 residential units and commercial uses on the ground floor were approved by Council on July 6, 2016 and again on September 16, 2020.
- The implementing official plan amendment and zoning by-law amendment were not passed within 18 months of either Council's decisions.
- The landowner has requested that an "H" holding provision be applied to the property to address any outstanding conditions of approval, which staff support.
- The prospective purchaser of the property has requested to amend the applications by eliminating the non-residential components from the development, which is not supported by staff.

Background

On June 27, 2016 a Recommendation Report

(https://www7.mississauga.ca/documents/committees/pdc/2016/06_27_2016_PDC_Minutes_Evening_session.pdf) was brought forward for consideration to the Planning and Development Committee (see Appendix 1). Recommendation PDC-0059-2016 was then adopted by Council on July 06, 2016. The applications were to change the land use designation from **Motor Vehicle Commercial** to **Mixed Use – Special Site** in the Official Plan and to change the zoning from **C5-3** (Motor Vehicle Commercial) to **C4-Exception** (Mainstreet Commercial) to permit a terraced three to six storey, mixed use building with commercial units on the ground floor. The applicant was not able to clear the outstanding conditions necessary for the passage of the implementing Official Plan Amendment and Zoning By-law.

A second public meeting was then held by the Planning and Development Committee on September 8, 2020 at which time a Supplementary Recommendation Report

(<https://pub-mississauga.escribemeetings.com/filestream.ashx?DocumentId=4282>) was brought forward for consideration (see Appendix 2). Recommendation PDC-0031-2020 which was then adopted by Council on September 16, 2020. Once again, the applicant was not able to clear the outstanding conditions necessary for the passage of implementing Official Plan Amendment and Zoning By-law.

Serena Homes has recently entered into an offer of purchase and sale with the current owner and have expressed their desire to advance the previous approvals, with amendments.



Aerial Image of 971 Burnhamthorpe Road East

Comments

Planning and Building staff continue to support the proposed 6 storey apartment building with ground floor commercial uses on the subject property. Although the extensions to the sunset clause has lapsed, the owner remains committed to having the project proceed and having the implementing official plan amendment and zoning by-law approved.

PLANNING ANALYSIS AND ZONING

The 2016 Recommendation Report contained in Appendix 1 and the Supplementary Recommendation Report contained in Appendix 2 include extensive analysis of the appropriateness of the proposed development relative to the applicable policy framework at the time those reports were written.

Despite updates to the Provincial Policy Statement (PPS) and Growth Plan since the approval of these applications, Mississauga Official Plan remains generally consistent with the current PPS and conforms to the Growth Plan and Region of Peel Official Plan. The proposed development respects the policies of Mississauga Official Plan, in that it represents intensification of an underutilized site, is located on a Corridor with existing transit service and contributes to the provision of housing within a Neighbourhood that benefits from existing community services and infrastructure.

The proposed **C4-Exception** (Mainstreet Commercial) zone standards noted in the Recommendation Report dated June 7, 2016, remain appropriate and are consistent with the **Mixed Use – Special Site** Official Plan designation approved by Council for the site.

Staff recommend that the approval of the official plan amendment and rezoning applications be upheld.

‘H’ HOLDING PROVISION

Since 2016, planning staff more commonly approve development applications with “H” holding provisions to capture outstanding conditions. Applying the “H” holding provision to the zoning allows the landowner to secure the land use permissions for the proposed development but does not allow them to obtain site plan approval or a building permit until such time that the “H” conditions have been satisfied and an amending by-law is enacted. This is beneficial to the landowner as it allows them to secure project financing while they resolve the outstanding “H” conditions. It is also beneficial to the City as the implementing by-law can be enacted shortly after Council approval of the applications rather than waiting until outstanding conditions are satisfied and risk exceeding the 18 month sunset clause.

Given the owner’s challenges in securing investment partners and more recently, difficulties in selling the property as a result of current real estate market conditions, the owner has been unable to satisfy the outstanding conditions, preventing the approval of the implementing official plan amendment and zoning by-law amendment documents. As such, staff are recommending that an “H” holding provisions be placed on the implementing zoning by-law. This will implement Council’s approval of the proposed official plan amendment and zoning by-law. Outstanding conditions will then need to be resolved prior to the Commissioner of Planning and Building authorizing a by-law to remove the “H” holding provision from the subject lands.

The “H” Holding Provision to be applied to the zoning would be lifted upon satisfaction of the following requirements:

- Receipt of an executed Development Agreement to the satisfaction of the City
- Completed Record of Site condition to the satisfaction of the Transportation and Works Department
- Forestry Streetscape fees paid to the satisfaction of the Forestry Department

- Updated engineering plans, reports and supporting documents to be provided to the satisfaction of Transportation and Works Department
- Updated Phase I Environmental Site Assessment to the satisfaction of Transportation and Works Department
- Completed Waste Management Plan to the satisfaction of the Region of Peel
- Updated Functional Servicing Report to the satisfaction of the Region of Peel

In addition to requiring an “H” holding provision removal application, a site plan application will also be required for the proposed development.

Bonus Zoning

As indicated in the 2016 Recommendation Report, the approval was subject to Corporate Policy and Procedure 07-03-01 - Bonus Zoning, which directed staff to secure Section 37 community benefits in exchange for increased building height and density. However, since the implementing by-law was never passed and the City's Community Benefits Charge (CBC) has come into effect, a Section 37 contribution can no longer be pursued and the development will, therefore, be subject to the CBC.

As the subject proposal is more than five storeys and contains 10 or more residential units in total, the CBC will be applicable and will be payable at the time of first building permit.

PROPOSED AMENDMENTS TO ORIGINAL APPROVALS

Serena Homes, the prospective purchaser, has advised staff of their desire to eliminate the non-residential floor area on the ground floor and to construct a six storey residential only building (Appendix 3).

Staff does not support the request to eliminate non-residential floor area as it would deviate from Council's previous approvals, which intended to facilitate a mixed-use development. The approval of the proposal was grounded in the appropriateness of a mixed-use building that intensified an underutilized motor vehicle commercial property on Burnhamthorpe Road East, a designated Corridor in Mississauga Official Plan. Altering the proposal to be exclusively residential would conflict with the intent of the **Mixed Use** designation and contravene Official Plan policies.

COMMUNITY ENGAGEMENT

A community meeting was held by Ward 3 Councillor, Chris Fonseca, on November 25, 2014. Notice signs were placed on the subject lands advising of the proposed official plan and zoning change. All property owners within 120 m (393 ft.) were notified of the applications.

Since the community meeting, three public meetings have been held for the proposed development on March 3, 2015, August 14, 2020 and January 8, 2024. All property owners within 120 m (393 ft.) were notified of these meetings.

Financial Impact

All fees paid by developers are strictly governed by legislation, regulation and City by-laws. Fees are required to be paid prior to application approval, except where otherwise may be prescribed. These include those due to the City of Mississauga as well as any other external agency.

Conclusion

In summary, Council's 2016 approval should be upheld, as the proposal represents an appropriate form of development that enhances an underutilized motor vehicle commercial site in an existing Neighbourhood. Planning staff's recommendation to apply an "H" holding provision enables the existing and/or new landowner to secure the necessary land use permissions while addressing outstanding technical conditions. This approach is in keeping with Planning and Building's current procedures and will allow the landowner to implement Council's approvals in the Zoning By-law to facilitate the sale of the property.

Attachments

- Appendix 1: Recommendation Report dated June 7, 2016
(Includes Information Report dated March 3, 2015)
- Appendix 2: Supplementary Recommendation Report dated August 14, 2020
- Appendix 3: Conceptual Site Plan – Residential only building



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