

# City of Mississauga Department Comments

Date Finalized: 2024-04-10	File(s): A163.24
To: Committee of Adjustment	Ward: 5
From: Committee of Adjustment Coordinator	Meeting date:2024-04-18 1:00:00 PM

## Consolidated Recommendation

The City recommends the application be refused.

## Application Details

The applicant requests the Committee to approve a minor variance to allow temporary approval for an outdoor storage space for a period of up to two years, whereas By-law 0225-2007, as amended, does not permit such a use in a C3 Zone.

## Background

**Property Address:** 3215 Derry Road East

### Mississauga Official Plan

Character Area: **Malton Neighbourhood**  
Designation: **Mixed Use**

### Zoning By-law 0225-2007

**Zoning:** **C3 - Commercial**

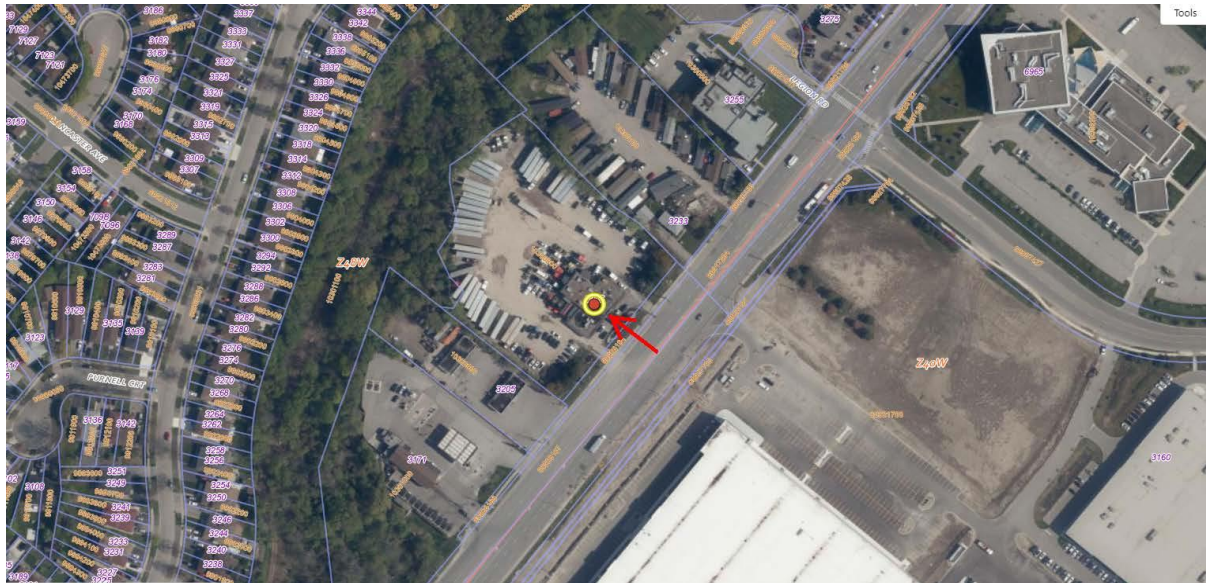
**Other Applications:** None

### Site and Area Context

The subject property is located on the north side of Derry Road East, east of the Airport Road and Derry Road intersection in the Malton Neighbourhood Character Area. A one-storey commercial building is present on the subject property, which has a lot area of +/- 1.18ha (2.91ac). Limited landscaping and mature vegetation exists along all of the lot boundaries of the

site. The surrounding context contains a mix of commercial, employment and motor vehicle commercial uses with a mobile home park abutting the property to the east. Additionally, the Derry Greenway abuts the property to the north.

The applicant is proposing an outdoor storage use requiring a variance for the use.



## Comments

### Planning

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to grant relief from the requirements of a municipal zoning by-law. Approval of applications must meet the requirements set out under 45(1) and/or 45(2) (a) or (b) in the *Planning Act*.

Staff comments concerning the application of the four tests to this minor variance request are as follows:

The subject property is located in the Malton Neighbourhood Character Area and is designated Mixed Use in Schedule 10 of the Mississauga Official Plan (MOP). This designation permits a variety of uses, including commercial, funeral establishment, motor vehicle, residential and service establishment uses. Post-secondary educational facilities are also permitted.

The applicant has proposed an Outdoor Storage use, which permits the storage of goods, including motor vehicles. The site plan submitted indicates the subject property will be utilized for the temporary parking of trucks. Staff note the Transportation Facility use may apply to the subject property, depending on the specifics of the vehicles intended to be stored. The zoning by-law defines a Transportation Facility use as an area set aside exclusively for the storage of commercial motor vehicles exceeding 3,000kg (6,613.86lbs) in weight.

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Staff note that the proposed Outdoor Storage or Transportation Facility uses are only permitted in Employment zones. Furthermore, Chapter 11 of the MOP only permits Transportation Facilities in Business Employment and Industrial designations, while Outdoor Storage is only permitted in the Industrial designation.

Planning staff are of the opinion that the MOP has clear policies to discourage this type of use in this area. The proposal is not appropriate for a site designated Mixed Use in the MOP and therefore does not maintain the general intent and purpose of the official plan. Furthermore, staff are of the opinion that the intent and purpose of the zoning by-law are not maintained by permitting uses not contemplated by the zone category and in accordance with an entirely different zoning framework. Staff find that the application is not minor in nature and does not represent appropriate development of the subject property.

Comments Prepared by: Daniel Grdasic, Committee of Adjustment Planner

## Appendices

### Appendix 1 – Transportation and Works Comments

Enclosed for Committees easy reference are photos depicting the subject property. We also note that any access related concerns will be addressed by the Region of Peel as Derry Road East is under their jurisdiction.









Comments Prepared by: Tony Iacobucci, Development Engineering Technologist

## **Appendix 2 – Zoning Comments**

In the absence of a Development application we are unable to confirm the accuracy of the information provided, or determine whether additional variance(s) may be required. It should be noted that a zoning review has NOT been completed. The applicant is advised that should they choose to proceed without zoning verification, a full zoning review may result in further variances being required in the future.

For scope of work that does not require Site Plan Approval/Building Permit/Zoning Certificate of Occupancy Permit, the applicant may consider applying for a Preliminary Zoning Review application. A detailed site plan drawing and architectural plans are required for a detailed zoning review to be completed. A minimum of 6-8 weeks is required depending on the complexity of the proposal and the quality of information submitted.

Comments Prepared by: Minan Song, Planner in Training

### Appendix 3 – Parks, Forestry & Environment Comments

The Parks and Culture Planning Section of the Community Services Department has reviewed the minor variance application and advises as follows:

The property is also adjacent to lands leased by the City of Mississauga, identified as Derry Greenway (P-125), classified as a Significant Natural Area within the City's Natural Heritage System, and zoned G1. Section 6.3.24 of the Mississauga Official Plan states that the Natural Heritage System will be protected, enhanced, restored and expanded through the following measure(s):

- a) Ensuring that development in or adjacent to the Natural Heritage System protects and maintains the natural heritage features and their ecological functions through such means as tree preservation, appropriate location of building envelopes, grading, landscaping...

Should the application be approved, Community Services provides the following notes:

1. Storage areas shall maintain a minimum setback of 5.0 m or greater to adjacent lands zoned G1 – Greenlands.
2. All existing encroachments onto City parkland identified as Derry Greenway (P-125) shall be removed.
3. Storage use in the adjacent park/greenlands is not permitted.
4. If access is required to City owned lands, a Consent to Enter Agreement/Park Access Permit will be required.
5. Stockpiling of construction materials and encroachment in the adjacent park/greenlands is not permitted.
6. No public trees shall be injured or removed. If public tree removal is required, a permit must be issued as per By-law 0020-2022.
7. No private trees shall be injured or removed. If a private tree with a diameter of 15 centimetres or greater on private property is to be injured or destroyed, a permit must be issued as per By-law 0021-2022.

Should further information be required, please contact Nicholas Rocchetti, Planner in Training - Park Assets, Community Services Department at 905-615-3200 ext. 4659 or via email [Nicholas.Rocchetti@mississauga.ca](mailto:Nicholas.Rocchetti@mississauga.ca).

Comments Prepared by: Nicholas Rocchetti, Planner in Training

## **Appendix 4 - TRCA Comments**

**Re: Minor Variance Application – A163.24**

**3215 Derry Road East**

**City of Mississauga, Region of Peel**

**Owner: MSK Derry Hotel Inc.**

**Agent: Harper Dell & Associates Inc. c/o Nicholas H. Dell**

This letter acknowledges receipt of the above subject application received on March 18, 2024. Toronto and Region Conservation Authority (TRCA) staff have reviewed this application and the circulated materials listed in Appendix A to this letter in accordance with the Conservation Authorities Act, which requires TRCA to provide programs and services related to the risk of natural hazards within its jurisdiction. With respect to Planning Act matters, conservation authorities have a role to ensure that decisions under the Planning Act are consistent with the natural hazard policies of the Provincial Policy Statement (PPS) and conform to any natural hazard policies in a provincial plan.

In addition, TRCA staff have also reviewed this application in accordance with Ontario Regulation 41/24. Where development activity is proposed within a regulated area, a permit is required to ensure that it conforms to the applicable tests for implementation of the regulation. The subject property is located partially within TRCA's Regulated Area of the Mimico Creek Watershed. Specifically, the subject land is within TRCA's Regulated Area owing to the presence of a valley corridor with Regulatory floodplain.

### **Purpose of the Application**

TRCA staff understand that the purpose of Minor Variance Application assigned City File No. A163.24 is to allow temporary approval for an outdoor storage space for a period of up to two years, whereas By-law 0225-2007, as amended, does not permit such a use in a C3 Zone.

It is our understanding that the requested variances are required to facilitate the outdoor storage of trucks on a temporary basis for a period of 1 to 2 years. The proposed works also include the development of a screened fence with screened gate. It is unclear if the existing structure is to remain or is to be removed. It is also unclear if the proposed parking expansion will require aggregate fill to be placed or require paving. TRCA staff understand there is no change to the access on Derry Road East.

### **Background**

In 2016 the applicant opened a TRCA Concept Development Application (CFN 55091.06) to determine the limits of development through a staking of the Top of Bank. At that time, it was noted that a geotechnical report confirming the extent of the Long-Term Stable Top of Slope was required to confirm the extent of the erosion hazard. TRCA has no record of this study having been submitted and as such the extent of the erosion hazard has not been confirmed to



date. As such, a geotechnical study remains outstanding. Staff recommends applicant contact TRCA to scope the geotechnical study Terms of Reference.

Through the City's pre-application consultation request (assigned project no. PAM 24-24 W5) the following comments were provided:

- As was noted in the initial PAM meeting, portions of Derry Road to the south near the rail underpass will be subject to unsafe flood depths.
- Portions of Derry Road to the north by the Mimico Creek crossing will be subject to safe but not flood free conditions. While the access into Derry Road at 3215 Derry Road itself is not subject to flooding, we would request confirmation from the City that the wider area meets their emergency access criteria.

### **Application Specific Comments**

Based on our review, the proposed temporary change of use of the existing parking will be located within TRCA's regulated portion of the site. We encourage the applicant to locate the fencing outside of the slope hazard. TRCA does not regulate the construction of fences under Ontario Regulation 41/24. As such the fencing works do not require a permit from TRCA under Ontario Regulation 41/24.

If the application does require aggregate filling or paving to expand the parking area, a permit will be required under Ontario Regulation 41/24. Please ensure that the proposed expansion of the parking is setback 10m from the Long-Term Stable Top of Bank as per the required geotechnical study that remains outstanding.

### **Recommendation**

TRCA's staff recommend **deferral** to the above noted Minor Variance Application – A163.24. As noted above, without supporting technical information on the overall limits of development, TRCA staff cannot support the parking configuration as currently shown as it appears to be within the potential Erosion Hazard to the adjacent valley feature. To facilitate TRCA's continuing review of this application, we would request that the applicant undertakes the noted geotechnical study to confirm the overall Long Term Stable Top of Slope for the current and future development and revised the proposed parking spaces to provide a 10m buffer from this hazard.

A TRCA permit pursuant to Ontario Regulation 41/24 may be required for any additional future works on the subject property.

### **Fee**

TRCA staff thank the applicant for their prompt payment of the required planning review fee of \$1,250.00 received on March 11, 2024.

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We thank you for the opportunity to review the Minor Variance Application and provide our comments. Should you have any additional questions or comments, please contact the undersigned.

Comments Prepared by: Marina Janakovic, Planner I

## **Appendix 5 – Region of Peel**

### **Minor Variance: A-24-163M / 3215 Derry Road East**

Transportation Development: Damon Recagno (905)-791-7800

#### **Comments:**

- Traffic related concerns to be dealt with at the planning application stage (PAM-24-024M) or any future application.

Comments Prepared by: Ayooluwa Ayoola, Planner