

Section II – Items for Executive Committee Action

TO: Chair and Members of the Executive Committee
Friday, February 3, 2023 Meeting

FROM: Sameer Dhalla, Director, Development and Engineering Services

RE: **APPLICATIONS FOR PERMITS PURSUANT TO S.28.0.1 OF THE CONSERVATION AUTHORITIES ACT Mayfield Developments Inc., Caledon**
CFN 68143 requesting permission for Development, Interference with Wetlands & Alterations to Shorelines & Watercourses pursuant to Ontario Regulation 166/06, 12259 Chinguacousy Road, Caledon, Ontario (Lot 19 and 20, Concession 2, Chinguacousy, Town of Caledon, Regional Municipality of Peel) by Mayfield Developments Inc.

KEY ISSUE

Issuance of permission pursuant to Section 28.0.1 of the Conservation Authorities Act to make alterations within a Regulated Area to facilitate the construction of a residential plan of subdivision at 12259 Chinguacousy Road, Town of Caledon, Region of Peel.

RECOMMENDATION:

WHEREAS the Minister of Municipal Affairs and Housing (MMAH) issued a Minister's Zoning Order (MZO) for the subject property on July 10, 2020, as Ontario Regulation 362/20;

WHEREAS Section 28.0.1 of the Conservation Authorities Act requires the Authority to issue permission for a development project that has been authorized by a Minister's Zoning Order (MZO) issued under the Planning Act, and where the lands in question are not located within a Greenbelt Area as identified through Section 2 of the Greenbelt Act;

WHEREAS Section 28.0.1 of the Conservation Authorities Act requires that the Authority shall not refuse to grant permission for a development project that has been authorized by an MZO, outside of the Greenbelt, under subsection (3) despite, (a) anything in Section 28 or in a regulation made under Section 28, and (b) anything in subsection 3(5) of the Planning Act;

WHEREAS Section 28.0.1(6), of the Conservation Authorities Act, permits the Authority to attach conditions to the permission, including conditions to mitigate any effects the development may have on the control of flooding, erosion, dynamic beaches, or unstable soil or bedrock and/or in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property;

WHEREAS Section 28.0.1(24), of the Conservation Authorities Act, provides that where a permit is to be issued pursuant to Ontario Regulation 166/06, the applicant is required to enter into an agreement with the Conservation Authority;

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AND WHEREAS Toronto and Region Conservation Authority (TRCA) staff, in the absence of an approved MZO, would normally issue a Section 28 Permit for the construction of a residential plan of subdivision, and it has been demonstrated there will no impact on the control of flooding, erosion, dynamic beaches, previous tests of pollution, the conservation of land, and new tests of unstable soils or bedrock, or jeopardize the health or safety of persons or result in the damage or destruction of property;

THEREFORE, LET IT BE RESOLVED THAT Mayfield Developments Inc. in the Town of Caledon be granted permission through a Permit to construct the residential plan of subdivision at 12259 Chinguacousy Road, Town of Caledon, Region of Peel;

THAT TRCA staff seek full cost recovery in accordance with TRCA's Administrative Fee Schedule; and

AND FURTHER THAT the Executive Committee authorize the entering into of an agreement related to the Permit for the site works.

MZO PERMIT SUMMARY

- Section 28.0.1 applies, and the Board must issue this permit.
- TRCA Staff support the issuance of this permit application as the applicant has demonstrated that it does not impact flooding, erosion, dynamic beaches, or unstable soil or bedrock, or jeopardize the health or safety of persons or result in the damage or destruction of property
- The conditions of this permit are standard conditions and have been agreed upon by the proponent with their filing of this application.
- An Agreement is required and will include standard Permit conditions.
- This report and approval are required to allow the applicant to proceed with construction.

BACKGROUND

Permit Applications, Property Descriptions and Background

The owner has applied for permission pursuant to Ontario Regulation 166/06, and Section 28.0.1 of the Conservation Authorities Act to construct a 497-unit, residential plan of subdivision draft plan of subdivision #21T-20006C, including a stormwater management facility, park, greenway corridor on lands known municipally as 12259 Chinguacousy Road, Caledon, Ontario. The lands are located at the East of Chinguacousy Road and North of Mayfield Road (Draft Plan map - **Attachment 1**).

The subject 25.74-hectare property is located within the Mayfield West Phase 2 community (Secondary Plan map – **Attachment 2**). Technical studies to support a Municipal Comprehensive Review (MCR) to expand the settlement boundaries of the existing Mayfield West Rural Service Centre (which included Phase 1) were initiated in 2008.

The original boundaries of the Mayfield West Phase 2 master-planned community were

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determined based on the 2006 Growth Plan population and employment allocations and minimum density targets. The Growth Plan was amended in 2013 and included updated 2031 population and employment numbers for Peel Region. As a result, the Mayfield West Phase 2 boundary was split into 2 distinct stages (Stage 1 to accommodate required growth to 2031 and Stage 2, which includes the plan subject to this application, for future growth). Stage 1 was approved by the OLT in 2017 under Regional Official Plan Amendment (ROPA) 29. A future MCR was required to bring Stage 2 into the urban settlement boundary for post-2031 growth.

To recognize the unique planning history of the Phase 2 community, ROPA 34 was submitted in 2017 to expand the Mayfield West Rural Service Centre to include this subdivision and the remainder of the Stage 2 lands in advance of another MCR. While review of ROPA 34 was underway, the Growth Plan was amended in 2017 and required municipalities subject to the plan to complete their MCR for plan conformity by July 1, 2022.

Supporting studies for ROPA 34 were finalized in early 2020 and Region of Peel staff with TRCA and Town staff support, recommended adoption of ROPA 34 at the March 12, 2020 Regional Council meeting. However, council deferred the adoption of ROPA 34 until completion of the Region's MCR. In response to the deferral, an MZO was issued on July 10, 2020 (MZO Map 244 - **Attachment 3**), which had the effect of providing detailed zoning provisions to allow urban land uses on the subject lands without the comprehensive policy framework typically afforded by the Regional Official Plan, local Official Plan and Secondary Plan. To provide a policy framework for the Stage 2 lands, which includes other smaller properties that excluded from the issued MZO, council rescinded the deferred resolution from March 2020 and adopted ROPA 34 in September 2020. The adoption provides a comprehensive policy framework for the Stage 2 lands, ensuring the protection of the natural heritage system throughout the community and ensuring that recommendations from completed technical studies are implemented. The Town has since amended the Mayfield West Phase 2 Secondary Plan and various OP schedules to include the Stage 2 lands and Stage 2 area-specific policies through a local Official Plan Amendment (OPA 255). Subsequent implementation and development sequencing studies have been approved to provide for orderly growth in the Stage 2 lands, which covers a total area of 105 hectares and will house 7,000 people and 500 jobs.

Supporting technical studies were completed for the Stage 2 community, including a Comprehensive Environmental Impact Study and Management Plan (CEISMP) that built on the work already completed for Stage 1 and the previous Phase 2 boundaries. The policy framework adopted through ROPA 34 also required the completion of a block-level Environmental Implementation Report (EIR) and Functional Servicing Study (FSR). These studies informed the layout of the subdivisions within the Stage 2 community. With respect to this particular subdivision, Etobicoke Creek flows from West to East to the North of the property. Etobicoke Creek and adjacent lands are located within the limits of the Greenbelt Plan. The regulatory floodplain, stable slope limit of the valley corridor, or the Greenbelt Plan limit have informed the limits of development for this subdivision. Note that the MZO for urban uses does not include portions of the Greenbelt Plan, however, the stormwater management facility associated with this plan

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of subdivision is located within the Greenbelt Plan area, outside of the valley system and defined vegetation protection zones. The facility location, which conforms with Section 4.2.3.3 of the Greenbelt Plan and other applicable policies, was approved in principle with TRCA staff support through the CEISMP process prior to the initiation of ROPA 34. A separate permit will be required for the stormwater management facility. The plan includes a terrestrial greenway corridor to provide connection to a Provincially Significant Wetland (PSW)/woodland block at the southeast corner of the plan area and to Fletcher's Creek beyond, both features located in Credit Valley Conservation's jurisdiction. Private and Public Low Impact Development (LID) measures are proposed within the subdivision to ensure that pre-development water balance is maintained. Two stormwater management ponds will service the subdivision based on the drainage divide through the lands. One pond is located within the CVC's jurisdiction and will drain a portion of the subdivision lands; the other proposed with this application is within TRCA's jurisdiction and will outlet treated stormwater to a stone core wetland, to dissipate flows, provide additional filtration and infiltration prior to out letting to Etobicoke Creek.

Mandatory Permits for MZO Development Projects

Section 28.0.1 of the amended Conservation Authorities Act (CA Act) applies to a development project that has been authorized by an MZO under the Planning Act, within an area regulated under Section 28(1) of the CA Act, outside of the Greenbelt Area. In TRCA's case, the regulated area is prescribed in Ontario Regulation 166/06.

The provisions of this new Section of the Act are summarized as follows:

- CAs shall issue a permit.
- CAs may only impose conditions to the permit, including conditions to mitigate:
 - Any effects the development project is likely to have on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
 - Any conditions or circumstances created by the development project that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property; or
 - Any other matters that may be prescribed by the regulation.
- An applicant has the right to a Hearing before the authority (Board) if there is an objection to the permit conditions being imposed by the CA. No hearing was requested for this permit application and the applicant has confirmed their consent to the conditions.
- If the applicant still objects to conditions following a decision of the Hearing Board, the applicant has the option to either request a Minister's review (MNRF) or appeal to the OLT.
- All MZO-related CA permits must have an agreement with the permittee (can include all parties, e.g., municipalities, on consent of applicant).
- The agreement shall set out actions that the holder of the permission must complete or satisfy to compensate for ecological impacts, and any other impacts that may result from the development project.
- The agreement must be executed before work commences on the site; some enforcement provisions through court proceedings are in effect for MZO permits.

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In summary, TRCA must issue a permit for development projects on lands subject to an MZO, outside of the Greenbelt, and can make that permission subject to conditions and must enter into an agreement with the landowner/applicant. Consistent with current practice, Board approval is required.

RATIONALE

Review of Permit Application by TRCA Staff

The applications have been reviewed by TRCA's geotechnical, water resources, hydrogeology, and ecology staff. The proposed site alteration does not impact:

- the control of flooding – all works are located outside of the regional storm floodplain;
- erosion – no geotechnical/slope stability issues have been identified;
- dynamic beaches – not applicable;
- unstable soil – no organic soils or leda clays are located on the lands subject to the MZO;
- unstable bedrock – karst topography is not located within or immediately adjacent to the site;
- and/or in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property – the stormwater facilities have been sized and located based on current best practices.

Note that upon royal assent, Bill 23 repealed clause 28.0.1 (6) (a) of the Conservation Authorities Act, removing the ability of Conservation Authorities to attach conditions mitigating the effects an MZO development project would have on the conservation of land and pollution. It is worthwhile to note that an agreement under 28.0.1 (25) can still require compensation for ecological impacts. As a result of Bill 23, the amended clause 28.0.1 (6) now includes the ability to attach conditions mitigating the effects of a development project on unstable soil and bedrock.

For clarity, Bill 23 also proposes to similarly repeal, under clause 28.1 (1) (a), the conservation of land and pollution tests and add the unstable soil and bedrock tests by way of amendment, for applications where an MZO has not been issued, but this does not come into force until an enabling regulation is proclaimed. Clause 28 (1) 2 of the Conservation Authorities Act already prohibited development on hazardous lands where a permit had not been issued. Hazardous lands are defined under 28(25) as land that could be unsafe for development because of naturally occurring processes associated with unstable soil or bedrock.

Even though this application was submitted prior to the royal assent of Bill 23, the application is now subject to the amendments of the Bill. However, the application in staff's opinion would not have affected the conservation of land or pollution tests as the development project is located outside of the NHS and sediment and erosion controls, in accordance with TRCA's guidelines, are proposed to mitigate any construction-related impacts to the adjacent NHS.

Policy Guidelines:

The proposed works are consistent with Section 8.4 (General Regulation Policies) and 8.5 (Valley and Stream Corridors) of the Living City Policies for Planning and

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Development in TRCA Watersheds.

SUMMARY CONCLUSION

Approval of permission for development within the TRCA's regulated area is required to allow development to commence. Staff are recommending the issuance of this Permit based upon TRCA's standard permit conditions (Standard Permit Conditions - **Attachment 4**), which will be included in the Agreement as required by the updated Conservation Authorities Act.

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Date: November 28, 2022

Attachments: 4

Attachment 1: Draft Plan Map

Attachment 2: Secondary Plan Map

Attachment 3: Minister's Zoning Order (MZO) Ontario Regulation 362-20 Map 244

Attachment 4: Standard Permit Conditions