

Section I – Items for Board of Directors Action

TO: Chair and Members of the Board of Directors
Friday, April 19, 2024 Meeting

FROM: Sameer Dhalla, Director, Development and Engineering Services

RE: **APPLICATIONS FOR PERMITS PURSUANT TO SECTION 28.1.2 OF THE CONSERVATION AUTHORITIES ACT (MINISTER’S ZONING ORDER, ONTARIO REGULATION 171/20)**
CFN 70659 - 4400 Queen Street East, Brampton Ontario (Part of Lot 4, Concession 10 North Division, City of Brampton, Regional Municipality of Peel) by TACC Holborn (Block 140) Inc.

KEY ISSUE

Issuance of permit pursuant to Section 28.1.2 of the Conservation Authorities Act for lands subject to a Minister’s Zoning Order (MZO) under the Planning Act to undertake development in the form of site grading, road construction, temporary sales office, temporary sediment pond and construction of a temporary stormwater outlet at 4400 Queen Street E, City of Brampton, Region of Peel.

RECOMMENDATION:

WHEREAS the Minister of Municipal Affairs and Housing issued an MZO for the subject property on May 22, 2020, as O. Reg. 171/20;

WHEREAS Section 28.1.2 of the Conservation Authorities Act requires Toronto and Region Conservation Authority (TRCA) to issue a permit for a development project that has been authorized by an 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 28.1.2(6), of the Conservation Authorities Act, allows TRCA to attach conditions to the permit 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 28.1.2(17), of the Conservation Authorities Act, provides that where a permit is to be issued the applicant is required to enter into an agreement with the TRCA;

AND WHEREAS Section 28.1.2(18), of the Conservation Authorities Act, provides that the agreement shall set out actions or requirements 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;

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AND WHEREAS TRCA, in the absence of an approved MZO, would normally issue a permit for site grading and the construction of a sales office, roads and servicing, and a temporary sediment pond and outlet where it has been demonstrated there will be no impact on the control of flooding, erosion, dynamic beaches, and 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 TACC Holborn (Block 140) Inc., in the City of Brampton be issued a permit for site grading and the construction of a sales office, roads and servicing, and a temporary sediment pond and outlet, subject to the Standard Conditions within Attachment 5 hereto;

AND FURTHER THAT the required agreement reflect and secure the approved conditions, and any actions or requirements that the permit holder must complete or satisfy to compensate for ecological impacts and any other impacts that may result from the development project.

BACKGROUND

Mandatory Permits for MZO Development Projects

Section 28.1.2 of the 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 the CA Act, outside of the Greenbelt Area

The provisions of Section 28.1.2 of the Act are summarized as follows:

- The Conservation Authority (CA) shall issue a permit;
- CA's 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 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 additional parties, e.g., municipalities, on consent of application);
- 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; and

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- The agreement must be executed before work commences on the site; some enforcement provisions through court proceedings are in effect for MZO permits.

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 practice, Board approval is required for all TRCA MZO permit applications.

MZO Permit Application

The owner has applied for permission pursuant to Section 28.1.2 of the Conservation Authorities Act ("the CA Act") to undertake site grading and the construction of a sales office, roads and servicing, and a temporary sediment pond and outlet on the property which will facilitate the future construction of single detached homes, townhouse blocks, a high density mixed-use residential/commercial block, an employment/office block and an open space block on lands municipally known as 4400 Queen Street E (Location of Subject Lands – **Attachment 1**).

The subject lands are 1.10 hectares in size, located at the northeast corner of Queen Street East and The Gore Road in the City of Brampton. The subject lands are within the Humber River watershed and regulated by TRCA due to the presence of the Clarkway Tributary valley corridor located along the eastern limits of the site.

An Official Plan Amendment (OPA), Zoning By-Law Amendment, and Draft Plan of Subdivision (Draft Plan of Subdivision 21T-13004B and City File #C10E04.005) were filed with the City of Brampton in 2013 to convert the lands from employment uses to residential and non-residential uses. Due to the conversion of employment lands, the proposal needed to be incorporated into the Municipal Comprehensive Review (MCR) process as part of City's 5-year Official Plan review.

Through the application review process, the limits of the valley corridor were established and development appropriately setback from the valley. The OPA was approved by Brampton Council and supported by City staff and Region of Peel staff as the lands were not required to achieve employment targets based on the analysis as part of the MCR. On September 6, 2018 a TRCA permit (C-180809) under O. Reg. 166/06 was issued for the subject site to facilitate topsoil stripping and rough grading associated with the draft plan of subdivision, official plan amendment and zoning by-law amendment applications (**Attachment 2**).

Other landowners in the vicinity appealed the City's decision to approve the OPA due to potential effects on City employment targets and distribution by converting the employment lands (OLT Case File #PL170768).

On May 22, 2020 a MZO (O. Reg. 171/20) (**Attachment 3**) was made under the Planning Act, which converted the lands from employment and introduced a commercial zone at the intersection of Queen Street as well as a high density residential zone, open

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space, residential, park block and Environmental Protection Area (EPA) on the lands. The outstanding OLT appeal was subsequently withdrawn and the OPA conversion took effect. The City of Brampton subsequently approved the Draft Plan of Subdivision.

RATIONALE

This permit will facilitate the undertaking of site grading and the construction of a sales office, roads and servicing, and a temporary sediment pond and outlet in advance of the mixed-use development on the property.

The majority of the site alteration works will be taking place on the tableland portions of the property outside of the valley corridor. There will be site alteration works taking place on a portion of the valley slope on the east side of the site to facilitate the installation of temporary stormwater infrastructure (i.e., storm sewer and outfall). The temporary stormwater outlet will be located at the base of the valley and will convey stormwater runoff from the temporary sediment pond to the watercourse. Such temporary stormwater controls and outlets are typical and in this instance are consistent to TRCA's Living City Policies.

The valley corridor will be isolated from the topsoil stripping activities through erosion and sediment control fencing.

Stormwater will be managed on the site for the duration of the site alteration works through the implementation of temporary swales and a sediment basin. These features will allow for energy dissipation and settlement of the stormwater prior to the water being released to the valley corridor. Other sediment and erosion control measures will also be employed including, but not limited to, inlet protection and mud mats.

Furthermore, only a portion of the final grading and servicing works are regulated by TRCA. The applicant also requires approval from the City of Brampton.

Review of Permit Application by TRCA Staff

The application has been reviewed by TRCA's water resources and ecology staff. The proposed site alteration does not impact:

- The control of flooding – the proposed road is located on tableland and is outside of the Regulatory Storm floodplain. The temporary stormwater outlet will be located above the 100-yr floodplain elevation. TRCA staff have reviewed the location and design of the outlet and are satisfied that no impacts to the conveyance and/or storage of floodwaters will occur because of the proposed structure;
- Erosion – all proposed site alteration and tableland servicing works are outside of the riverine erosion hazard. The outfall structure will be located at the base of the valley. Based on the siting and design of the outfall, TRCA staff are satisfied that there will be no erosion issues;
- Dynamic beaches – not applicable;
- Unstable soil – no organic soil or marine clays are located on the lands subject to the MZO;

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- Unstable bedrock – there are no sinkholes, caverns or other hazards associated with karst topography on the subject lands or immediately adjacent to the site; and;
- 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.

Recommendation

Staff recommend approval of the permit subject to the Standard Conditions in **Attachment 4.**

Policy Guidelines

The proposed works are consistent with Section 8.4 (General Regulation Policies), 8.5 (Valley and Stream Corridors) and 8.9 (Infrastructure Policies) of the Living City Policies for the Planning and Development in TRCA Watersheds.

SUMMARY CONCLUSION

Approval of permission for development conforms with the requirements of TRCA's LCP. The CA Act requires the Authority to issue such a permit on these lands as they are subject to a MZO, issued under the Planning Act. Staff have therefore reviewed the application, confirmed that it meets tests as prescribed in the CA Act.

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Attachments: 4

Attachment 1: 4400 Queen Street E Location & Regulated Area Map

Attachment 2: Site Plan

Attachment 3: MZO - O. Reg. 171/20 and Map #234

Attachment 4: Standard Permit Conditions