

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: **APPLICATION FOR PERMIT PURSUANT TO SECTION 28.1.2 OF THE CONSERVATION AUTHORITIES ACT (MINISTER'S ZONING ORDER, ONTARIO REGULATION 362/20)**
CFN 70674 - 12529 Chinguacousy Road, Lot 20, Concession 2,
Town of Caledon by FP Mayfield West (Caledon) 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 under the Planning Act, to undertake site grading, servicing, and final construction of a residential plan of subdivision, at 12529 Chinguacousy Road, Town of Caledon, Region of Peel.

RECOMMENDATION:

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

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 development activities 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 FP Mayfield West (Caledon) Inc., be issued a permit for the construction of Draft Plan of Subdivision 21T-20004C, 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's) 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 Ontario Land Tribunal (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.
- 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

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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 Section 28.1.2 of the Conservation Authorities Act to undertake site grading, servicing, and the final construction of a 215-unit residential plan of subdivision on a 19.43-hectare property municipally known as 12529 Chinguacousy Road, in the Town of Caledon (Draft Plan of Subdivision – **Attachment 1**). The lands are located within the broader 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. Extensive engagement with TRCA staff occurred over the proceeding 10-plus years to plan the broader Phase 2 community. Phase 2 of Mayfield West was split into Stage 1 and Stage 2. While Stage 1 was incorporated into the Region's settlement area boundary in 2015, the Region deferred the adoption of the Stage 2 lands until approval of its post-2031 Official Plan update to be adopted by regional council in 2022. In response to the deferral, an MZO was issued on July 10, 2020 (MZO Map 244 – **Attachment 3**), which led to the Stage 2 lands and the subject subdivision being brought into the Region and Town settlement area boundaries in respective Official Plans.

Supporting technical studies were completed to the satisfaction of TRCA staff for the Stage 2 community prior to the MZO, including a Comprehensive Environmental Impact Study and Management Plan (CEISMP) that built on the work already completed for Mayfield West Phase 2. A block-level Environmental Implementation Report (EIR) and Functional Servicing Study (FSR) were also completed prior to the MZO to the satisfaction of TRCA staff. These studies informed the layout of the subdivisions within the Stage 2 community. Note that TRCA approved two MZO permits in the Mayfield West Phase 2, Stage 2 community in 2023; one for construction of the subdivision immediately south of the subject lands (RES.#B 6/23) and another for a subdivision to the southeast (RES.#B 46/23).

With respect to this subdivision, Etobicoke Creek flows from west to east to the south of the property. A smaller tributary flows in a southeasterly direction to the north of the property before converging with Etobicoke Creek immediately downstream of the development. Etobicoke Creek and adjacent lands are located within the limits of the Greenbelt Plan. The stable top of slope limit of the valley corridor, the regulatory floodplain limit, or the Greenbelt Plan limit have informed the limits of development for this subdivision. Portions of the regulatory flood flow from Etobicoke Creek spills onto the development site. A cut and fill balance is proposed to remove the portions of floodplain from the development area without impacting the conveyance and storage of flood waters. The cut and fill proposal was approved by TRCA through the Secondary Planning process on the basis of preliminary technical work. A detailed analysis has been completed with this submission confirming no flood-related impacts. The proposal's stormwater management scheme also conforms to the EIR/FSR and

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CEISMP for the broader community. Note that private and public Low Impact Development (LID) measures are proposed within the subdivision to ensure that pre-development water balance is maintained in accordance with the master environmental and servicing studies for the community. An extensive restoration plan is also proposed for the Etobicoke Creek valley corridor and Greenbelt lands. This restoration plan was proposed through the previous CEISMP process. The restoration plan is not a requirement of this permit as falls outside of the MZO lands within the Greenbelt. The restoration of the valley is a TRCA and Town of Caledon condition of draft plan approval and is being implemented through the planning process.

RATIONALE

Review of Permit Application by TRCA Staff

The application has been reviewed by TRCA staff. The proposed site alteration does not impact:

- The control of flooding – portions of the lands are within the regulatory floodplain. A cut and fill operation is proposed with this application to remove the lands from the floodplain, which conforms to the preliminary technical work submitted through the Secondary Planning and Subdivision processes, preceding the MZO.
- Erosion – all proposed aspects of the development are located outside of the riverine erosion hazard and staff are satisfied that there will be no erosion issues;
- Dynamic beaches – not applicable;
- Unstable soil – no hazardous organic soils or Leda clays are located on the lands subject to the MZO;
- Unstable bedrock – there are no carbonate rock formations at or near the surface which may produce landforms of dissolution or karstic features such as suffusion sinkholes, caves, clint and grike, which may be hazardous to the construction of the subdivision; 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 – access to and from the property will be safe and not subject to riverine flooding. The cut and fill balance will remove portions of the development site from the floodplain, mitigating any potential risk to people and property. The development will be located outside of any natural hazards at the completion of grading.

Recommendation

Staff recommend approval of the permit subject to the Standard Conditions in (Standard Permit Conditions - **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

The approval of permission for development conforms with the requirements of TRCA's

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LCP. The Conservation Authorities Act requires the Authority to issue such a permit on these lands as they are subject to an MZO, issued under the Planning Act. Staff have therefore reviewed the application, confirmed that it meets tests as prescribed in the Conservation Authorities Act.

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Date: March 26, 2024

Attachments: 4

Attachment 1: Draft Plan of Subdivision

Attachment 2: Secondary Plan

Attachment 3: Map 244 – Ministers Zoning Order - Ontario Regulation 362/20

Attachment 4: Standard Permit Conditions