

2023-09-28



**CONSENT APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 2**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 340 Terry Fox Drive and 105 Helmsdale Drive
Legal Description: Part of Block 4 on Plan 4M-642, Parts 2,3,4,5 on Plan 4R-14329
File No.: D08-01-23/B-00109 and D08-01/B-00223
Report Date: September 28, 2023
Hearing Date: October 3, 2023
Planner: Samantha Gatchene
Official Plan Designation: Suburban Transect, Special District
Zoning: IG[1525]

SYNOPSIS OF APPLICATION

At its hearing on June 20, 2023, the Committee granted an adjournment of the application so that the Owner could obtain more information on stormwater management for both lots. The Owner has now submitted revised plans as well added a drainage easement to their application.

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has no concerns with** the applications.

DISCUSSION AND RATIONALE

Section 53 (12) of the *Planning Act*, R.S.O. 1990, c .P.13, as amended, permits the criteria for the subdivision of land listed in Section 51 (24) to be considered when determining whether provisional consent may be granted by a committee of adjustment. With respect to the criteria listed in Section 51 (24), staff have no concerns with the proposed consent.

There is an office building and associated surface parking on 340 Terry Fox Drive and a soccer field on 105 Helmsdale Drive. The application seeks to move the lot line so that it does not run through the parking lot of 340 Terry Fox Drive. This would create a more developable parcel at 105 Helmsdale Drive.

A drainage easement has been requested which would allow the existing drainage swale on 105 Helmsdale Drive to transport and receive drainage of 340 Terry Fox Drive to the

receiving ditch. To allow for the drainage to be conveyed across properties, approval of an Environmental Compliance Approval (ECA) is required. At the time of this report the ECA is being reviewed by City prior to submission to the Ontario Ministry of Environment, Conservation and Parks (MECP) for approval.

Planning Forestry

Through pre-consultation it was determined that no TIR is required as no construction is currently proposed on the vacant lot. Tree information will be required for subsequent development review processes. There are no tree-related concerns with the lot line adjustment.

Right of Way Management

The Right-of-Way Management Department has no concerns with the Lot Line Adjustment application, as there are no proposed changes to the private approach/entrance way.

CONDITIONS

If approved, the Planning, Real Estate and Economic Development Department requests that the Committee of Adjustment impose the following condition on the application:

Lot Line Adjustment

1. That the owner(s) file with the Secretary-Treasurer of the Committee of Adjustment the following:
 - a. A copy of the reference plan and/or legal description of the severed land and the deed or instrument conveying the severed land to the owner of the abutting property, known municipally as 340 Terry Fox Drive, so that no new lot is being created, in accordance with paragraph (b) below
 - b. A Certificate of Official attached to the deed/transfer required by paragraph (a) above containing the following endorsement:

“The lands to be severed are for the purpose of a lot addition only to the abutting lands owned by (*insert name*) described as PIN (*insert property identification number*) being Part(s) (*insert numbers*) on Plan (*insert plan number*), not for the creation of a new lot, and any subsequent transfer, charge or other transaction involving the lands to be severed shall be subject to compliance with Section 50(3) or Section 50(5) of the Planning Act, as applicable. Neither the lands to be severed nor the abutting lands are to be transferred, charged, or otherwise re-conveyed in the future without the other parcel unless a further consent is obtained.

The owner(s) shall cause the lands to be severed to be consolidated on title with the abutting lands and for this condition to be entered on the parcel register for the consolidated parcel as a restriction.”

- c. An undertaking from a solicitor authorized to practice law in the Province of Ontario, and in good standing with the Law Society of Upper Canada, as follows:

“In consideration of, and notwithstanding the issuance of the Certificate under Section 50(12) of the Planning Act in respect to the subject Application for Consent, I undertake on behalf of the Owner, within **30 days** of the registration on title of the transfer document containing the endorsement set out in the Certificate of Official issued by the Committee of Adjustment, to file an Application to Consolidate Parcels including the severed land (Part of PIN (*insert number*) and the abutting land (PIN *insert number*). This PIN consolidation is intended to reinforce the Planning Act stipulation in the condition outlined above that both parcels have merged on Title and cannot be conveyed separately in the future. I further undertake to forward a copy of the registered Application to Consolidate Parcels and a copy of the Consolidated Parcel abstract page(s) to the Committee office within 21 days of the registration of the Application to Consolidate Parcels”.

- d. Where the parcel consolidation stipulated in paragraph (b) and the solicitor’s undertaking in paragraph (c) above cannot be completed because the parcels of land to be merged have different estate qualifiers, an application to annex restrictive covenant under Section 118 of the *Land Titles Act* must be registered on the title of both the severed lands and on the abutting parcel that is to be merged. The covenant, which is to be to the satisfaction of the Secretary-Treasurer of the Committee of Adjustment, shall advise all future purchasers that the parcels must be dealt with together and not separately, and contain wording set out below or similar wording acceptable to the Secretary-Treasurer of the Committee of Adjustment:

“These lands have been merged and may not be dealt with separately, without applying for a consent of the Committee of Adjustment.”

In lieu of the undertaking provided in paragraph (c), a replacement undertaking by the solicitor must be filed undertaking on behalf of the owner(s) to register the

restrictive covenant on both property titles within 30 days of the registration of the transfer document containing the endorsement of the Certificate of Official issued by the Committee of Adjustment for this application and to file a copy of the registered restrictive covenant with the Committee of Adjustment within 21 days of the registration of the document.

2. That the Owner(s) provide a servicing plan or other evidence, to the satisfaction of **the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that each existing building and/or unit on the severed and retained parcels has its own independent water, sanitary and sewer connection, as appropriate, that are directly connected to City infrastructure and do not cross the proposed severance line.

If they do cross or do not connect directly or are not independent, and there is sufficient justification for the service locations to remain, the Owner(s) must obtain Ontario Ministry of the Environment and Conservation and Parks (Environmental Compliance Approval – ECA), must obtain the approval of the Committee to grant easement(s) as required for access and maintenance of the services, and must register a Joint Use and Maintenance Agreement, between the Owners of the services, on the title of the property, all at his/her own costs. The Owner(s) also agree to enter into a Development Agreement with the City to cover these required items as well as all engineering, administrative and financial matters. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

3. That the Owner(s) shall provide evidence that a grading and drainage plan, prepared by a qualified Civil Engineer licensed in the Province of Ontario, an Ontario Land Surveyor or a Certified Engineering Technologist, has been submitted to the satisfaction of **the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate** to be confirmed in writing from the Department to the Committee. The grading and drainage plan shall delineate existing and proposed grades for both the severed and retained properties, to the satisfaction of **the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate**.

Samantha Gatchene



Samantha Gatchene, MCIP, RPP
Planner I, Development Review, West
Planning, Real Estate and Economic
Development Department

Lisa Stern, MCIP, RPP
Planner III, Development Review, West
Planning, Real Estate and Economic
Development Department