



Corporate Report

Clerk's Files

Originator's
Files OZ 09/012 W5

PDC SEPT 6 2011

DATE: August 16, 2011

TO: Chair and Members of Planning and Development Committee
Meeting Date: September 6, 2011

FROM: Edward R. Sajecki
Commissioner of Planning and Building

SUBJECT: **Information Report**
Official Plan Amendment and Rezoning Applications
To permit a crematorium in the existing funeral home
3263 Derry Road East
North of Derry Road East, east of Airport Road
Owner: 1429036 Ontario Inc. (Benisasia Funeral Home)
Applicant: Glen Schnarr and Associates Inc.
Bill 51

Public Meeting **Ward 5**

RECOMMENDATION: That the Report dated August 16, 2011, from the Commissioner of Planning and Building regarding the applications to amend the Official Plan from "General Retail Commercial" to "General Retail Commercial - Special Site" and to change the Zoning from "C3" (General Commercial) to "C3-Exception" (General Commercial), to permit a crematorium in the existing funeral home under File OZ 09/012 W5, 1429036 Ontario Inc., 3263 Derry Road East, be received for information.

BACKGROUND: The subject applications have been circulated for technical comments and a community meeting was held on May 5, 2011.

In addition to the Official Plan Amendment and zoning approval, the proposed crematorium would require a Certificate of Approval from the Ministry of the Environment and a license to operate from the Ministry of Consumer Services, each governed under separate legislation.

The Province of Ontario licenses all funeral homes, crematoriums and cemeteries under the *Cemeteries Act (Revised)*, and the *Funeral Directors and Establishments Act*. The current legislation only permits a crematorium in a cemetery. A free standing crematorium or one that is proposed in a funeral home is currently not permitted.

The Province has proposed new legislation entitled the *Funeral, Burial and Cremation Services Act, 2002* (new Act). This new Act received Royal Assent on December 13, 2002, and is scheduled to come into effect on July 1, 2012.

The new Act is an expansion, consolidation and modernization of the *Cemeteries Act (Revised)*, and the *Funeral Directors and Establishments Act*. The primary objective is to offer protection and greater transparency to consumers and the bereavement sector and will permit crematoriums outside cemeteries. Under the new Act, no person shall establish a crematorium without first submitting a formal request to and receiving approval from the local municipality. The local municipality may hold a separate public hearing under the Act and grant approval if in the municipality's opinion, such an approval is in the public interest. The Ministry of Consumer Services is currently working to finalize the Regulations before the new Act can come into force. Until the new Act is in force, the existing legislation (i.e. the *Cemeteries Act (Revised)*, and the *Funeral Directors and Establishments Act*) that govern crematoriums will continue to remain in effect.

The purpose of this report is to provide preliminary information on the applications and seek comments from the community. In anticipation of the new Act coming into effect next year, the applicant wishes to proceed with the proposed Official Plan Amendment and Rezoning of the subject lands in order to permit

the proposed crematorium within the existing funeral home as municipal approval is a prerequisite to any subsequent approvals and licensing by the Province.

No additional gross floor area or building addition are proposed through these applications.

COMMENTS:

Details of the proposal are as follows:

Development Proposal	
Applications – submitted:	August 24, 2009 (Received) September 16, 2009 (Deemed Complete)
Gross Floor Area:	2 156.65 m ² (23,214.75 sq. ft.)
Gross Floor Area - non-residential	1 296.49 m ² (13,955.76 sq. ft.) - area accessible to the public
Building Height:	2 storeys
Lot Coverage	9.8 %
Landscaped Area:	12.7 %
Existing Parking:	98 spaces
Required Parking:	97 spaces
Supporting Documents:	<ul style="list-style-type: none"> - Planning Justification and Rationale Report - Emission Summary and Dispersion Modeling Report - Phase I Environmental Site Assessment - Phase II Environmental Site Assessment

Site Characteristics	
Frontage:	22.7 m (74.5 ft.) - Legion Road
Depth:	60.0 m (196.9 ft.) (Average)
Lot Area:	0.87 ha (2.15 ac.)
Existing Use:	Funeral Home

Additional information is provided in Appendices I-1 to I-8.

Neighbourhood Context

The subject property is located in a mixed commercial and residential area in the Malton community. The topography is generally flat. The West Branch of Mimico Creek is located immediately to the north and east of the site. The area is characterized by mature trees generally located within the Mimico Creek floodplain. Information regarding the history of the site is found in Appendix I-1.

The surrounding land uses are described as follows:

- North: West Branch of Mimico Creek. Detached and semi-detached dwellings north of the Creek.
- East: West Branch of Mimico Creek. Detached dwellings east of the Creek.
- South: A motor vehicle sales and service facility.
- West: Office building and a trailer home park.

Current Mississauga Plan Designation and Policies for the Malton District (May 5, 2003)

"General Retail Commercial" which permits establishments for the sale of goods and services, recreation, entertainment and accommodation to the general public. Residential, community and office uses are also permitted. Sections 3.8.2.11c and 3.8.5.3 of the General Policies state in part that crematoria will be located only in cemeteries. The applications are not in conformity with the land use designation because the proposed crematorium is not a permitted use.

The Malton District Land Use map identifies the subject lands to be located within the regulatory floodplain of the Mimico Creek Watershed and adjacent to the Mimico Natural Area System shown on Schedule 3 - Environmental Areas. In 2001, the owner was required to dedicate greenbelt lands under their ownership as part of the approval of the rezoning application to permit a funeral home under File OZ 00/052 W5. Additional greenbelt dedication will not be required if the subject applications are approved.

Section 3.15.4.4 of Mississauga Plan states in part that in determining compatibility between land uses, odours and air particulates will be important considerations.

Section 5.3.2 of Mississauga Plan contains criteria which require an applicant to submit satisfactory planning reports to demonstrate the rationale for the proposed amendment; as follows:

- the proposal would not adversely impact or destabilize the overall intent, goals and objectives of the Official Plan; and the development and functioning of the remaining lands which have the same designation, or neighbouring lands;
- the lands are suitable for the proposed uses, and compatible with existing and future uses of surrounding lands; and
- there are adequate infrastructure and community services to support the proposed development.

Proposed Official Plan Designation and Policies

"General Retail Commercial - Special Site" to permit a crematorium within the existing funeral home.

New Mississauga Official Plan

Mississauga Official Plan was adopted by City Council on September 29, 2010. Until the new Mississauga Official Plan is approved by the Region of Peel and comes into force, Mississauga Plan continues to be in effect. While the existing Official Plan is the plan of record against which the applications are being reviewed, regard should also be given to the new Mississauga Official Plan.

Under the new Mississauga Official Plan, the subject lands are designated **"Mixed Use"** which does not permit a crematorium. The current proposal does not conform to the land use designation and associated policies contained in the new Mississauga Official

Plan. Section 11.2.4.4 states in part, that crematoria will be located only in cemeteries. Consideration will be given to the policies in the Plan that relate to clean air, pollution prevention, protection of air quality, and reduction of harmful gas emissions.

It is worth noting that the subject lands are located adjacent to the Green System shown on Schedules 1 and 1a, and the Natural Areas System on Schedule 3. The owner will not be required to dedicate additional greenbelt lands.

The timing of the approval of the proposed site specific official plan amendment may be affected by the approval of the new Mississauga Official Plan and any potential appeals. A recommendation will be included in the Supplementary Report to address the status of the new Mississauga Official Plan.

Existing Zoning

"C3" (General Commercial), which permits a wide range of retail and service commercial uses including a funeral home. However, a crematorium is not permitted.

Proposed Zoning By-law Amendment

"C3 - Exception" (General Commercial), to permit a crematorium within the existing funeral home.

The applicant has indicated that the standard regulations under the "C3" (General Commercial) zone will be met and therefore no changes have been requested. However, there are certain existing conditions on the property which are considered to be legal non-conforming and should be corrected as part of any approval. These include: an exemption from the minimum 5.0 m (16.4 ft.) greenbelt setback related to parking spaces as required by Table 2.1.17.1; a reduction to the required number of disabled parking from four to two disabled spaces; and, an exemption from the requirement that lots with funeral homes must front on major roads.

COMMUNITY ISSUES

On October 14, 2009, Council referred a petition submitted by the residents of Justine Drive to staff for action. The petition was against the proposed crematorium. Additional correspondence was received expressing similar concerns.

On May 5, 2011, a community meeting was held at the Victory Hall to discuss the proposed crematorium which was attended by Mayor Hazel McCallion, City staff, the applicant and approximately 100 residents. The majority of the residents expressed concerns on the proposed crematorium. Staff received written comments during and after the community meeting in addition to various e-mails and calls expressing similar concerns.

The following is a summary of all comments and concerns:

- air quality is a major concern;
- crematoriums emit air pollutants;
- mercury emission is a serious health hazard;
- existing crematoriums already serve the City;
- crematoriums should not be located near residential areas; and
- frequency of cremation and hours of operation.

With respect to the comment that there are crematoriums already serving the City, information has been obtained from the Ontario Association of Cemetery and Funeral Professionals that there are 4 existing crematoriums in the Region of Peel. In addition, the City of Brampton has recently approved an Official Plan Amendment and Rezoning Application to permit a Funeral Visitation Centre and Crematorium in an industrial park at 10 Bramwin Court (see Appendix I-7).

The Planning and Building Department has also received 14 copies of a form letter dated June 4, 2011, signed by individuals which indicate that they have no objection to the approval of the subject applications. Letters were received from a sports and cultural society and from the executive committee of a seniors community indicating their support to the applications. Similarly, 2 additional

petitions were received, one from a seniors association and the other from a seniors club also in support of the proposal.

DEVELOPMENT ISSUES

Air Quality

An air quality study was submitted by the applicant and circulated for comments. The outstanding matters related to the study will be resolved prior to the Supplementary Report, (see Transportation and Works Department comments for details in Appendix I-6).

All agency comments are summarized in Appendix I-6. Based on the comments received and the applicable Mississauga Plan policies, the following matters will have to be addressed:

- the cumulative impact of emissions from the proposed facility on the ambient air quality;
- land use compatibility with sensitive land uses; and
- timing of Provincial legislation and implications.

OTHER INFORMATION

Development Requirements

In conjunction with the proposed use, there are certain other environmental matters with respect to air quality and pollution which will require the applicant to enter into appropriate agreements with the City.

FINANCIAL IMPACT: Development charges will be payable in keeping with the requirements of the applicable Development Charges By-law of the City as well as financial requirements of any other official agency concerned with the development of the lands.

CONCLUSION: All agency and City department comments have been received and after the public meeting has been held and all issues are resolved, the Planning and Building Department will be in a position to make a recommendation regarding these applications.

ATTACHMENTS:

Appendix I-1 - Site History
Appendix I-2 - Aerial Photograph
Appendix I-3 - Excerpt of Malton District Land Use Map
Appendix I-4 - Excerpt of Existing Land Use Map
Appendix I-5 – Existing Site Plan
Appendix I-6 - Agency Comments
Appendix I-7 – Location of Existing and Proposed Crematoriums
Appendix I-8 - General Context Map

Edward R. Sajecki
Commissioner of Planning and Building

Prepared By: Haig Yeghouchian, Development Planner

1429036 Ontario Inc. (Benisasia Funeral Home)

File: OZ 09/012 W5

Site History

- September 26, 2000 - A rezoning application under File OZ 00/052 W5 was submitted to permit a funeral home.
- April 11, 2001 - Site Plan application under File SPR 01/149 W5 was submitted for approval to expand the funeral home by an additional 228.04 m² (2,454.7 sq. ft.)
- July 11, 2001 - Rezoning application (OZ 00/052 W5) was approved and the implementing zoning by-law was also passed by Council.
- June 7, 2002 - Site Plan Application (SPR 01/149 W5) was approved.
- June 20, 2007 - Zoning By-law 0225-2007 came into force except for those sites which were not appealed and the subject lands were zoned "C3" (General Commercial).



LEGEND:



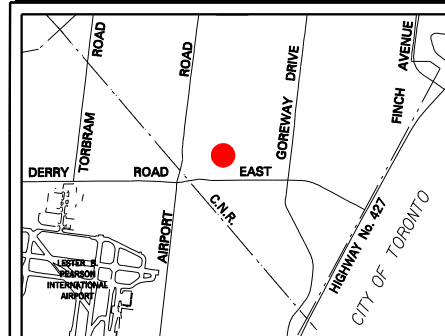
SUBJECT LANDS

DATE OF AERIAL PHOTO: 03 2010



SUBJECT:

1429036 ONTARIO INC.



FILE NO:
OZ 09012 W5

DWG. NO:
09012A

SCALE:
1:2500

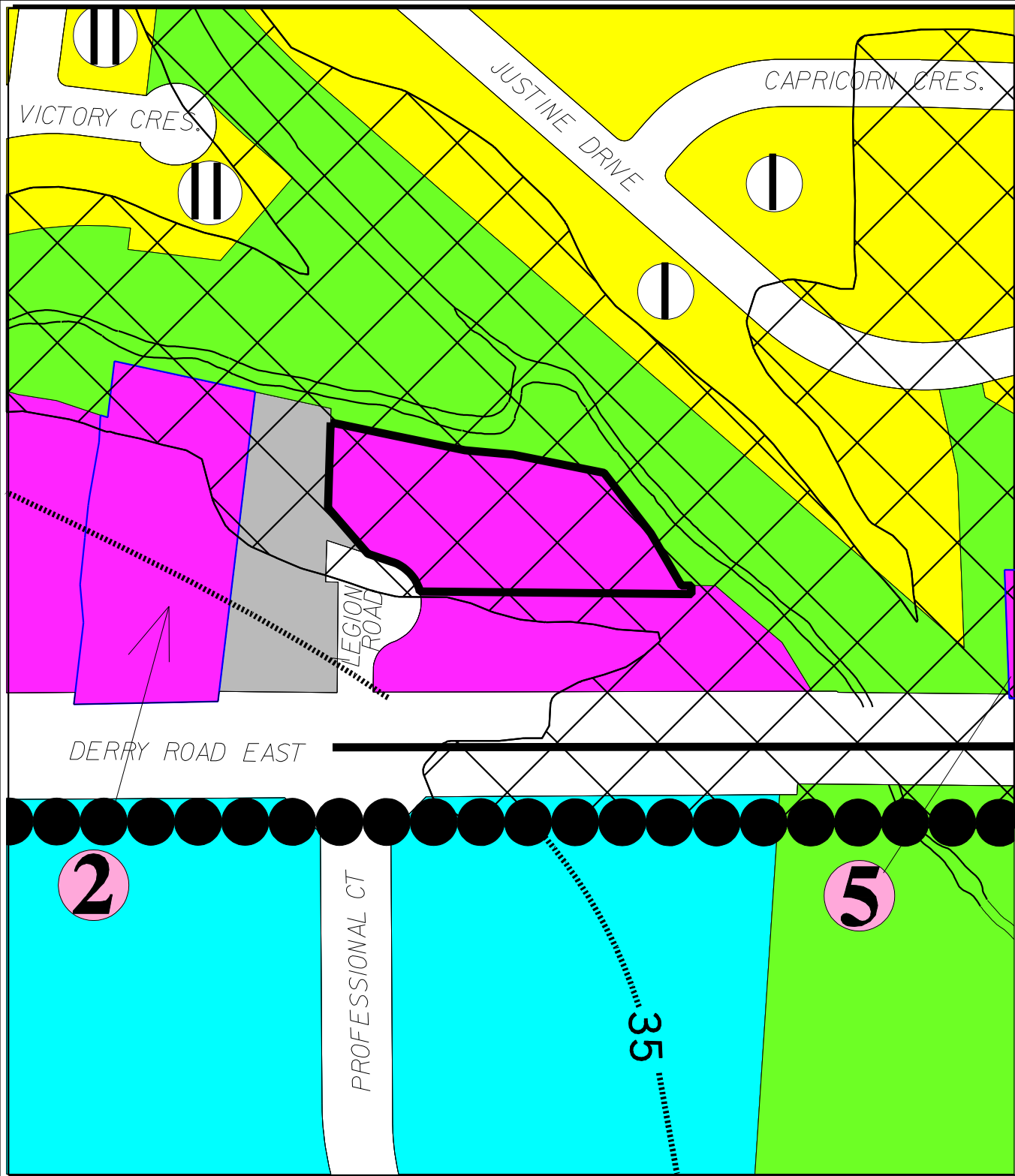
PDC DATE:
2011 09 06

DRAWN BY:
K. PROKOP

APPENDIX I-2

MISSISSAUGA
Planning and Building

Produced by
T&W, Geomatics



**PART OF MALTON DISTRICT LAND USE MAP
MALTON DISTRICT POLICIES OF MISSISSAUGA PLAN**

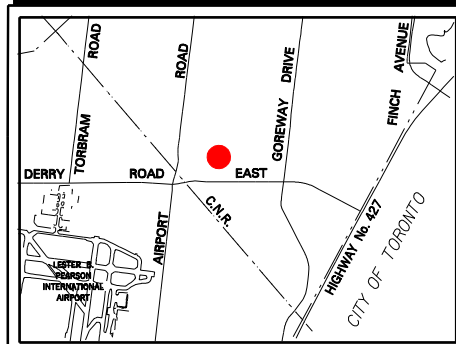
- | | |
|---|---|
| <p>LAND USE DESIGNATIONS</p> <ul style="list-style-type: none"> Residential – Low Density I Residential – Low Density II Residential – Medium Density I Residential – Medium Density II Residential – High Density I Residential – High Density II Mainstreet Commercial General Commercial Convenience Commercial Motor Vehicle Commercial Office Public Open Space Greenbelt Utility | <p>TRANSPORTATION LEGEND</p> <ul style="list-style-type: none"> Provincial Highway and Interchange Arterial Major Collector Minor Collector Local Road Existing Commuter Rail Existing Commuter Rail Station 1996 NEP2000 NEF Composite Noise Contours Planning District |
| <p>LAND USE LEGEND</p> <ul style="list-style-type: none"> Regulatory Floodplain Node Boundary LBPIA Operating Area Boundary – See Aircraft Noise Policies Special Site Areas (See Special Site Policies) | <p>1996 NEP2000 NEF Composite Noise Contours</p> <p>Planning District</p> |



SUBJECT LANDS



SUBJECT: 1429036 ONTARIO INC.



FILE NO:
OZ 09012 W5

DWG. NO:
09012L

SCALE:
1:2500

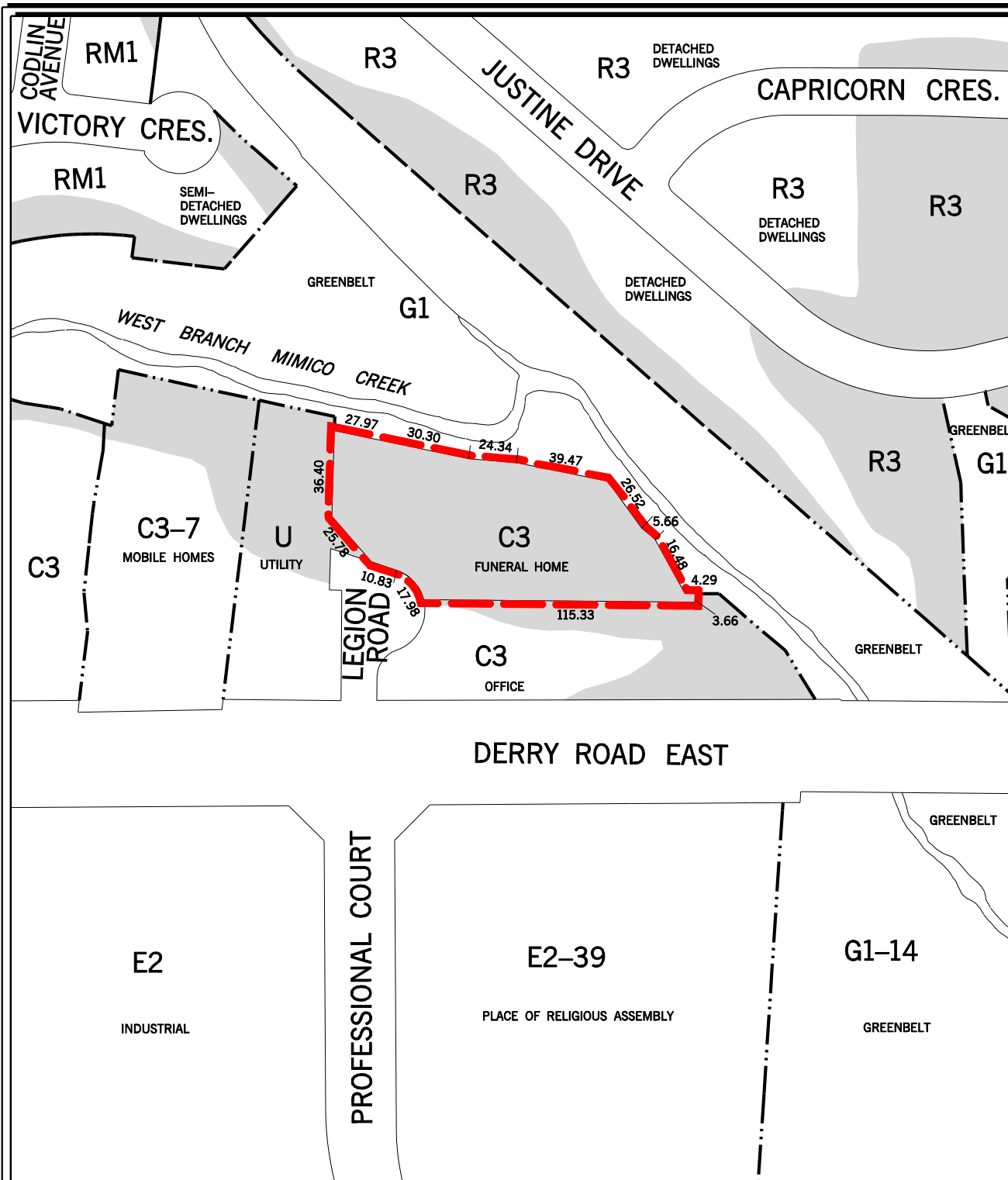
PDC DATE:
2011 09 06

DRAWN BY:
K. PROKOP

MISSISSAUGA
Planning and Building

Produced by
T&W, Geomatics

APPENDIX I-3



LEGEND:



PROPOSED OFFICIAL PLAN AMENDMENT FROM "GENERAL RETAIL COMMERCIAL" TO "GENERAL RETAIL COMMERCIAL-SPECIAL SITE" AND PROPOSED REZONING FROM "C3" (GENERAL COMMERCIAL) TO "C3-EXCEPTION" (GENERAL COMMERCIAL), TO PERMIT A CREMATORIUM IN THE EXISTING FUNERAL HOME.



GREENBELT OVERLAY

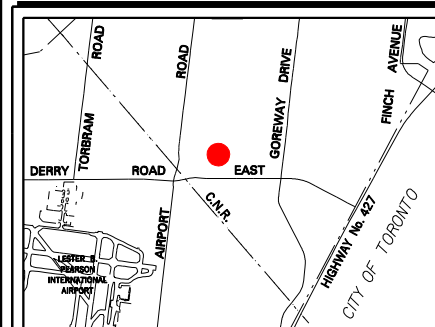
NOTE: EXISTING ZONING DELINEATED ON THE PLAN PROPOSED ZONING INDICATED BY SHADING WITHIN THE APPLICATION AREA.

THIS IS NOT A PLAN OF SURVEY.



SUBJECT:

1429036 ONTARIO INC.



FILE NO:
OZ 09012 W5

DWG. NO:
09012R

SCALE:
1:2500

PDC DATE:
2011 09 06

DRAWN BY:
K. PROKOP

APPENDIX I-4

MISSISSAUGA
Planning and Building

Produced by
T&W, Geomatics

BLOCK A, REG'D PLAN 896

PIN 13264-0665

DERRY GREENWAY PARK

NEW 2m WIDE RIP RAP
PROTECTION TO BE PLACED
ON BANK IN DISTURBED AREAS

CITY OF MISSISSAUGA
SEWER EASEMENT

REINSTATED
LANDS
(conveyed to the City)

REMOVE EXISTING FENCING,
LIGHT POLES, FIXTURES,
HORSESHOE PITCHES AND
DEBRIS, EVEN GRADE
WITH TOPSOIL TO MATCH
EXISTING, NATIVE WOODY
AND HERBACEOUS VEGETATION

EXISTING CHANLINK
FENCE TO BE REMOVED

NOTE:
ALL NEW GRADES AT THE EDGES OF
THE PARKING LOT TO MEET THE EXISTING GRADES

OBC Article: 3.2.2.25

OZ 00-052 W5
MUNI **APPENDIX I-5**

MUNI **APPENDIX I-3**
BLOCK 11
PLAN/CONC. 470
43 R 5366
ZONING: M1 SECTION 2549
SITE AREA: 8724 sq.m. (0.8724 ha)

BUILDING AREA

EXISTING: 891.16 sq.m
PROPOSED ADDITION: 228.04 sq.m
TOTAL PROPOSED BUILDING AREA: 1119.20 sq.m
COVERAGE: 9.77%

LANDSCAPED AREA: 1.105.61 sq.m

PAVED AREA: 4662.63 sq.m

GROSS FLOOR AREA

BASEMENT: 184.58 sq.m

GROUND FLOOR: 891.16 sq.m

2-ND FLOOR: 852.77 sq.m

TOTAL EXISTING GFA: 1928.61 sq.m

PROPOSED ADDITION (ground floor) GFA: 228.04 s

TOTAL PROPOSED GFA: 2156.65 sq.m

PUBLIC G.F.A.

BASEMENT - 0 sq.m

GROUND FLOOR - 842.79 sq.m

2-nd FLOOR — 453.70 sq.m

TOTAL PUBLIC G.F.A. = 1296.49 sq.m

PARKING REQUIREMENTS

7.5 SPACES PER 100 sq.m

OF ACCESSIBLE TO PUBLIC FLOOR AREA.

$$\frac{1296.49}{100} \times 7.5 = 97.23 \text{ or } 98 \text{ spaces}$$

PARKING REQUIRED: 98 SPACES

PARKING PROVIDED: 98 SPACES

~~HANDICAPPED PERSONS REQUIRED SPACE~~

HANDICAPPED PARKING PROVIDED: 2 SPACES

LOADING SPACES: NOT REQUIRED

49.3

7.62m WIDE CITY OF
MISSISSAUGA SEWER EASE
AS IN INSTRUMENT NO. TT

A circular professional engineer seal for the Province of Ontario. The outer ring contains the text "REGISTERED PROFESSIONAL ENGINEER" at the top and "PROVINCE OF ONTARIO" at the bottom. The center of the seal features a stylized sunburst or gear-like design. The name "R.W. BEATON" is printed across the center. A handwritten signature, "R.W. Beaton", is written over the seal.

BLOCK B
REVIEWED BY *[Signature]*
DATE *Apr 9*
470 MISSISSAUGA
EMERGENCY SE

BENCH MARK

1429036 Ontario Inc. (Benisia Funeral Home)

File: OZ 09/012 W5

Agency Comments

The following is a summary of comments from agencies and departments regarding the applications.

Agency / Comment Date	Comment
Ministry of Consumer Services (July 12, 2011)	<p>The <i>Cemeteries Act (Revised)</i> does not allow free standing crematoria in Ontario.</p> <p>In accordance with Sections 2, 7 and 56(1) of the <i>Cemeteries Act (Revised)</i>, a crematorium may only be built on existing cemetery land subject to the consent of the Registrar.</p> <p>The Funeral Burial Cremation Services Act, 2002, and the regulations have been approved and that the Act and regulations are scheduled to take effect on July 1, 2012.</p>
Region of Peel (July 26, 2011)	<p>Regional staff does not have any objections to the approval of the subject applications and note that an amendment to the Region of Peel Official Plan is not required. They have reviewed the applicant's air quality report and have advised that they do not have a regulatory role in air quality.</p> <p>In addition to zoning approval, the proposed crematorium would require a Certificate of Approval from the Ministry of the Environment (MOE) and a license to operate from the Ministry of Consumer Services.</p> <p>The Region has advised that the MOE has indicated that they would review the air quality report submitted by the applicant and provide comments on the report and cumulative impacts on the condition that the applicant submits a separate application to the MOE for a Certificate of Approval for the proposed crematorium.</p>
Toronto and Region Conservation Authority (July 26, 2011)	<p>The subject lands are located within the Regional Storm Floodplain of the Mimico Creek Watershed. The addition of a crematorium will not increase the existing risk on the property and as such they have no objection to the approval of the subject applications.</p>
Greater Toronto Airports Authority (July 26, 2011)	<p>According to the Airport Zoning Regulations for the Toronto Lester B. Pearson International Airport, development elevations on the subject property are affected by the Outer</p>

1429036 Ontario Inc. (Benisia Funeral Home)

File: OZ 09/012 W5

Agency / Comment Date	Comment
	<p>Surface. The maximum allowable development elevation under this restriction is 219.46 m (720.0 ft.) Above Sea Level (ASL). The property is also affected by the Localizers for Runways 15L and 24R.</p> <p>Based on the finished floor elevation of 164.71 m (540.4 ft.) ASL, and the 2 storey (10.5 m (34.4 ft.) height of the existing building, the proposed crematorium in the existing funeral home would be within the allowable height limits associated with the Regulations.</p> <p>The subject property lies within the 30-35 NEF/NEP of the composite contour map for the Airport and within the Airport Operating Area (AOA). Noise contours depicting the Noise Exposure Forecast (NEF) and Noise Exposure Projection (NEP) are produced to encourage compatible land use planning in the vicinity of airports. Acoustical design features should be incorporated in the building components to the satisfaction of the City of Mississauga.</p>
City Transportation and Works Department (July 29, 2011)	<p>An air quality study dated August, 2010 by RWDI Air Inc. was submitted by the applicant and was circulated to the Transportation and Works Department, and to the Region of Peel with a request to forward the study to the Ministry of the Environment (MOE) through the “one window” approach. The Region of Peel has indicated that they do not regulate air quality and therefore has expressed no comment on the study. The MOE has indicated to the Region that they will not review the study unless a Certificate of Approval application is submitted to the Ministry by the applicant. Correspondence from the applicant’s consultant indicates that it is their understanding that municipal planning approval is required prior to submitting an application for a Certificate of Approval. Therefore, it appears that Council will not have the benefit of the MOE’s expertise in air quality prior to making a decision on this application.</p> <p>The air quality study submitted in support of the applications concludes as follows:</p> <ul style="list-style-type: none"> - the facility will emit twenty nine (29) contaminants, including odour,

1429036 Ontario Inc. (Benisia Funeral Home)

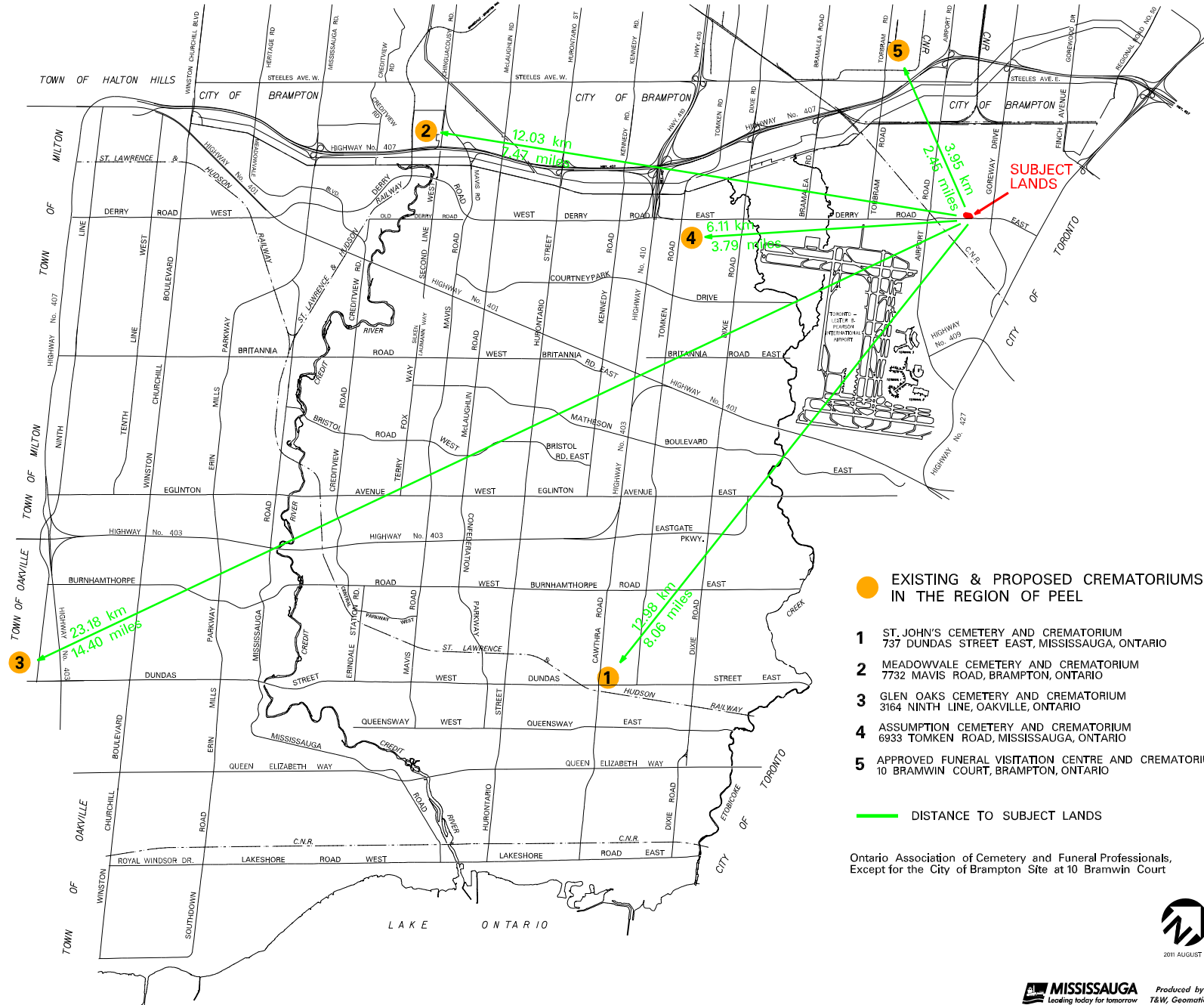
File: OZ 09/012 W5

Agency / Comment Date	Comment
	<ul style="list-style-type: none"> - dispersion modeling indicates that contaminant concentrations due to emissions from the facility will comply with provincial 'point of impingement' air quality standards at the property boundary and at off-site sensitive receptors, - when emissions from the facility are added to the existing ambient air quality concentrations, air quality standards are exceeded for nitrogen oxides, cadmium and mercury. <p>In response to questions raised by staff, the applicant's consultant indicated the following:</p> <ul style="list-style-type: none"> - the current process to obtain approval from the MOE requires that a facility meet the 'point of impingement' standards without including the existing ambient air quality concentrations (cumulative effects), - the available data for background concentrations of cadmium was collected at a time when the laboratory detection limit was higher than the standard is today, - mercury emissions are based on old and limited test data, - further controls to reduce emissions are possible but would require the disposal of small amounts of ash, which could be a cultural issue as well as a regulatory issue. <p>Staff does not have the level of expertise in this area to evaluate the above comments and provide guidance to Council. We therefore require that an independent and qualified consultant be retained by the City, at the applicant's expense, to evaluate the air quality study and other information that has been provided in order and make recommendations on the appropriateness of this land use proposal from an air quality perspective.</p>
Other City Departments and External Agencies	<p>The following City Departments and external agencies offered no objection to these applications provided that all technical matters are addressed in a satisfactory manner:</p> <ul style="list-style-type: none"> - City Community Services Department - Planning, Development and Business Services/Park Planning

1429036 Ontario Inc. (Benisasia Funeral Home)

File: OZ 09/012 W5

Agency / Comment Date	Comment
	Division <ul style="list-style-type: none"> - City Community Services Department - Culture Division - City Community Services Department - Fire and Emergency Services Division - Mississauga Transit - Canada Post - Enersource Hydro Mississauga - Enbridge Gas Distribution
	The following City Departments and external agencies were circulated the applications but provided no comments: <ul style="list-style-type: none"> - City Economic Development - City Realty Services - City Community Services Department - Cemeteries and Administration - Ministry of the Environment - Hydro One - Bell Canada - Rogers Cable



Ontario Association of Cemetery and Funeral Professionals,
Except for the City of Brampton Site at 10 Bramwin Court



2011 AUGUST

APPENDIX I-8

