



Corporate Report

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CD.02-CRE

PDC APR 2 2012

DATE: March 13, 2012

TO: Chair and Members of Planning and Development Committee
Meeting Date: April 2, 2012

FROM: Edward R. Sajecki
Commissioner of Planning and Building

SUBJECT: *Funeral, Burial and Cremation Services Act, 2002 - Proposed Mississauga Official Plan and Zoning By-law Amendments Respecting Crematoriums*

RECOMMENDATION: That a public meeting be held to consider proposed official plan and zoning amendments as recommended in the report titled "*Funeral, Burial and Cremation Services Act, 2002 - Proposed Official Plan and Zoning By-law Amendments Respecting Crematoriums*" dated March 13, 2012, from the Commissioner of Planning and Building.

BACKGROUND: Currently, the Province of Ontario licences all funeral homes, crematoriums and cemeteries under the *Cemeteries Act (Revised)*, and the *Funeral Directors and Establishments Act*. The legislation permits crematoriums only in cemeteries. On July 1, 2012, the *Funeral, Burial and Cremation Services Act, 2002* will come into effect and establish a new regulatory framework for most of the bereavement sector, including crematoriums. The new legislation will allow applications for a licence to operate a crematorium outside of a cemetery. Crematoriums currently require and will continue to require, a Certificate of Approval from the Ministry of the Environment (MOE) to ensure the environment is not adversely affected.

City Council has expressed concerns about potential land use conflicts between new crematoriums and residential uses. At its meeting of October 12, 2011, City Council passed Resolution 0237-2011 requesting that the Province amend the *Funeral, Burial and Cremation Services Act, 2002* to establish minimum separation distances from proposed crematoriums to sensitive land uses. That resolution also directed that the Commissioner of Planning and Building undertake a study to review the official plan policies and zoning by-law provisions with respect to the *Funeral, Burial and Crematorium Services Act, 2002*.

This report examines the land use planning implications and the potential health impacts of the *Funeral, Burial and Crematorium Services Act, 2002* and proposes revised official plan and zoning regulations to guide the location of crematoriums.

PRESENT STATUS: Existing Official Plan and Zoning Provisions

The existing and new official plan - Mississauga Plan (2003) and Mississauga Official Plan (2011) – restrict crematoriums to cemeteries. Cemeteries are only permitted on lands designated “Open Space” or “Parkway Belt West”.

Zoning By-law 0225-2007, as amended, defines a “cemetery” as land used or intended to be used for the interment of human remains and which may include a crematorium. A crematorium is defined as “a building, structure or part thereof used for the purposes of the cremation of human remains”.

Cemeteries are allowed in the following zones:

- OS3 (Open Space Zone 3), with the exception of zones OS3-1, OS3-2, OS3-4, OS3-5 and OS3-7 which do not permit crematoriums and mausoleums;
- PB2 (Parkway Belt Zone 2); and
- E2-93 (Employment Zone 2, Exception 93) (NE corner of Ninth Line and Dundas Street in Western Business Park Employment Area).

Existing and Proposed Burial and Cremation Facilities

Appendix 1 shows the location of existing cemeteries and crematoriums in Mississauga. The City owns and operates nine cemeteries of which four remain currently active in that burial interments or columbarium niches for cremated remains are available for sale. The perpetual upkeep, maintenance and long term operation of closed or abandoned cemeteries can be mandated in Ontario to the municipality and several of the City's cemeteries were assumed in this manner. An additional 15 cemeteries are privately-operated or affiliated with a religious congregation.

There are two crematorium facilities in Mississauga. These are Assumption Cemetery and Crematorium (#4) located at 6933 Tomken Road and operated by the Catholic Archdiocese of Toronto, and St. John's Cemetery and Crematorium located at 737 Dundas Street East (#1) and operated by St. John's Dixie Anglican Church.

Two additional crematoriums are located just outside the city limits - Glen Oaks Cemetery (#3) in Oakville and the Meadowvale Cemetery (#2) in Brampton. The City of Brampton recently approved an Official Plan amendment and rezoning application to permit a cemetery, crematorium and a funeral visitation centre at 10 Bramwin Court (#5) on lands designated and zoned "Industrial".

On August 24, 2009, Benisasia Funeral Home (1429036 Ontario Limited) submitted Official Plan amendment and rezoning applications under File OZ 09/012 W5 to permit a crematorium in the existing funeral home located at 3263 Derry Road East (#6). A public meeting on the application was held on September 6, 2011.

COMMENTS:

Municipal Policy Responses

The Minister of Consumer Services has confirmed that a licence for a crematorium will not be granted by the Province until municipal approvals have been obtained (see Appendix 2). The *Funeral, Burial and Cremation Services Act, 2002* does not override the City's existing Official Plan and Zoning By-law which is based on existing legislation and restricts crematoriums to cemeteries. There is no requirement to amend municipal policies and regulations to conform to the new Act.

City staff consulted with staff from Toronto, Hamilton, Ottawa, Oakville, Waterloo, and Brampton to determine whether or not they were amending their municipal regulations concerning crematoriums in response to the new Act. At this point in time, none of these municipalities are proposing to amend municipal official plan and zoning regulations to permit crematoriums as-of-right outside of cemeteries. The recently approved crematorium in an industrial area in Brampton was considered under the existing legislative framework.

While the new Act does not require municipalities to expand the areas in which crematoriums may locate, the legislation was updated to be more responsive to consumer needs and to provide increased options for bereavement services. If the City chooses to maintain the status quo, it will have to evaluate each crematorium proposal on an individual basis in the absence of policies that meet the intent of the new provincial legislation. Without examining this matter on a city-wide basis, the City could be vulnerable to site specific appeals at the Ontario Municipal Board.

Demand for Cremation Services

In recent years, the demand for cremation has grown significantly. In 1995, 36% of deaths in Ontario resulted in cremation. Today, approximately 70% of deaths result in cremation.¹ The shift towards cremation is due to a variety of factors including: reduced land requirements; lower costs; religious/cultural beliefs; the desire for portability of the remains; and, a perceived lower impact on the environment. Mississauga has a culturally diverse and aging population and it is expected that many residents will choose cremation services.

Recommendation No. 43 of the City's Community Services Future Directions Report states that "the City should through its Cemetery Operations Business Analysis, continue to consider the needs and options for a new cemetery and other initiatives that can meet current trends in the bereavement industry and the cultural preferences of its residents."

¹ *Projection 2010 Figure 65%+, Cremation Association of North America (CANA)*

In view of the growing demand for cremation and the expanded Provincial licensing provisions for crematoriums, it is appropriate to examine municipal provisions regarding locations for crematoriums.

Planning Considerations

The two crematoriums operating in Mississauga are located in cemeteries. Assumption Cemetery is designated “Private Open Space” and is located within an Employment Area in the Northeast Character Area. St. John’s Dixie is designated “Private Open Space” and located in the Applewood Neighbourhood Character Area. Both of these locations provide a range of funeral services and disposition options including cremation. They are situated in park-like settings and offer quiet contemplative focal areas for remembrance. While there have been no major concerns with existing crematoriums in cemeteries, any expansions should be subject to the same policy framework as for new crematoriums.

The *Funeral, Burial and Cremation Services Act, 2002* does not contain location criteria or separation distances to sensitive land uses. Decisions as to where crematoriums might be most appropriately located in Mississauga need to consider provincial policies, potential health impacts and plans that regulate land use, as well as local policies/objectives. These include supporting the city’s long term vision, the need to minimize land use conflicts with existing uses and impacts to sensitive uses.

Provincial Policies

The Provincial Policy Statement, 2005, requires that land use be carefully managed to accommodate development to meet the full range of current and future needs while minimizing the undesirable effects of development impacts on air, water and resources. The Growth Plan for the Greater Golden Horseshoe, 2006, encourages development of complete communities that meet peoples’ needs throughout an entire lifetime. Cemeteries provide passive open space and locations for remembrance which contribute to the quality of life for communities and form part of a complete community.

Supporting the City's Vision

Mississauga Official Plan sets out the vision to 2031 and beyond. It identifies a hierarchical city structure based on planned land use functions. Population and employment growth is directed to Intensification Areas. It is inappropriate to permit crematoriums in Intensification Areas where large concentrations of residents and/or employees are envisioned. As well, crematoriums in proximity to residential areas and sensitive land uses (e.g., daycares, schools) needs to be carefully considered.

Public Health

A review of the literature reveals that when human remains are cremated, a number of by-products or trace air pollutants are created that could pose potential public health impacts. These include particulate matter, volatile organic compounds, carbon monoxide, nitrogen oxides, sulphur dioxides, hydrogen chloride, heavy metals (cadmium, mercury and lead) and dioxins and furans. The toxic emissions are particularly evident when the following materials are cremated along with the remains:

- mercury amalgam dental fillings;
- organohalogens (dioxins, furan etc.) and other toxics accumulated through diet;
- pacemakers; and
- silicone, metal or plastic impacts in humans.

The clothing and plastic wrap that often accompany the body can result in significant quantities of smoke, particularly early in the burn cycle. The magnitude of the emissions may depend upon the type of incinerator that is used and cremation practices (e.g. removal of dental fillings prior to cremation).

Studies regarding the ability to mitigate the health impacts of crematoriums are inconclusive, but in an abundance of caution, crematoriums should be directed away from locations that are in close proximity to residential and to other sensitive land uses (e.g. daycares, schools).

Separation Distances

The MOE requires that a Certificate of Approval be issued for crematoriums in order to address concentrations of air pollutants meeting provincial guidelines on and beyond a cemetery property under normal operations. However, the Certificate of Approval may not address the adverse impacts generally associated with odour and visible smoke emissions.

The City has the ability to impose separation distances between industrial uses and sensitive land uses to avoid or minimize the potential for land use conflicts that extend beyond the property limits of the industrial activity. Typical emissions that may affect the amenity of nearby sensitive land uses includes gaseous and particulate emissions, noise, dust and odour. Although not always the case, it is generally assumed that impacts on the environment will generally decrease with increased distance from the source of the emission.

The Minister of Consumer Services has indicated that a municipality may wish to introduce separation distances through its zoning powers under the *Planning Act*. In this regard, MOE's "Compatibility Between Industrial Facilities and Sensitive Land Uses (D-6-3) Separation Distances" (collectively known as the "D6 Guidelines") may be used as a guide to develop separation distances between new crematoriums and sensitive land uses.

Crematoriums have been identified by air quality experts as Type II facilities under the D6 Guidelines. The recommended minimum setback for a Type II industrial use from a sensitive land use is 70 m (230 ft.) with a potential area of influence of 300 m (985 ft.).²

Based on the above, crematoriums should be located a minimum 300 m (985 ft.) from residential and other sensitive land uses. According to the D6 Guidelines, residential land use shall be considered sensitive 24 hours/day.

² The Government of Western Australia applies a 200 m/656 ft. to 300 m /985 ft. distance guideline to separate crematoriums from sensitive land uses. This distance is based on the experience of environmental agencies and scientific assessments of site specific operations. Source: Government of Western Australia, Environmental Protection Authority, *Guidance for the Assessment of Environmental Factors, Separation Distances between Industrial and Sensitive Land Uses* June 2005

Proposed Locations

Based on the above, it is recommended that crematoriums be directed to lands designated “Industrial” in Employment Character Areas or on cemetery lands designated “Open Space,” adequately separated from residential and other sensitive land uses.

a) Industrial Areas

The “Industrial” designation permits a range of industrial employment activities such as manufacturing and processing, including waste processing or transfer stations and composting facilities, which may be obnoxious due to outdoor activities (including air emissions), noise odour or visual aesthetics.

Lands designated “Industrial” are generally interior to employment areas and, thus, meet the D6 Guidelines separation distance from residential and sensitive land uses.

There are only three industrial areas of the city which could be considered for the establishment of a crematorium – Gateway, Northeast and Southdown Employment Character Areas. Lands designated “Industrial” within the Gateway and Northeast Employment Character Areas are interior lands and are not located in proximity to residential or sensitive lands uses. Noise restrictions due to the Airport already prohibit residential and sensitive land uses in these areas.

However, lands designated “Industrial” in the Southdown Employment Character Area are in close proximity to residential uses and other sensitive land uses. Further, the Province has identified Southdown as a taxed airshed due to cumulative air quality issues. As such, the Southdown Employment Character Area policies do not permit some uses permitted elsewhere on lands designated “Industrial” (e.g. trucking terminals, waste processing station or waste transfer stations and composting facilities and expansions to or new outdoor processing). Accordingly, it is recommended that crematoriums not be permitted in Southdown.

Appendix 3 shows the location of lands designated “Industrial” where it is proposed that crematoriums be permitted in the Mississauga Official Plan (2011).

Recommendation: That Mississauga Official Plan (2011) be amended to permit crematoriums on lands designated “Industrial” in the Gateway and Northeast Employment Character Areas.

b) Open Space – Cemeteries

Cemeteries have traditionally accommodated crematoriums and other related facilities (e.g., columbariums, areas for the scattering of cremated remains). There have been no concerns expressed regarding existing crematoriums in cemeteries and crematoriums are a complementary use to a cemetery. Provided that appropriate separation distances and other considerations are addressed, crematoriums should continue to be permitted in cemeteries.

Recommendation: That Mississauga Official Plan (2011) continue to permit crematoriums in cemeteries on lands designated “Open Space”.

c) Parkway Belt West

While the Parkway Belt West Plan allows for some additional uses, its primary function is to create a multi-purpose utility corridor, urban separator and linked open space system. Lands designated “Parkway Belt West” are highly visible from major highways and are often adjacent to residential and sensitive land uses. As such, crematoriums are not considered an appropriate use in this designation.

Recommendation: That Mississauga Official Plan (2011) be amended to not allow crematoriums on lands designated “Parkway Belt West”.

Zoning

The OS3 (Open Space Zone 3) is the appropriate zoning category for crematoriums establishing in cemeteries. The E3 (Employment Zone 3) accommodates the widest range of industrial uses and is the appropriate zoning category for crematoriums that establish outside of cemeteries. The as-of-right permissions in the PB2 (Parkway Belt Zone 2) should be removed.

To ensure that proposed crematoriums meet the location criteria outlined in this report, a 300 m (985 ft.) distance separation between a crematorium and a residential zone or sensitive land use should be introduced in the zoning by-law. Further, crematoriums should not be permitted in multi-unit buildings.

Recommendation: That the zoning by-law continue to permit crematoriums in OS3 (Open Space Zone 3).

Recommendation: That the zoning by-law be amended to permit crematoriums in E3 (Employment Zone 3) in the Gateway and Northeast Employment Character Areas on lands designated “Industrial”.

Recommendation: That the zoning by-law be amended to remove crematoriums as a permitted use in PB2 (Parkway Belt Zone 2).

Recommendation: That the zoning by-law be amended to introduce a 300 m (985 ft) distance separation between a crematorium and a sensitive land use.

Recommendation: That the zoning by-law be amended to prohibit crematoriums in multi-unit buildings.

STRATEGIC PLAN:

Providing Mississauga residents with greater consumer choice in bereavement services indirectly supports the following Strategic Goals:

- Completing Our Communities under the Connect Pillar; and
- Nurture Diverse Cultures under the Belong Pillar.

FINANCIAL IMPACT: N/A

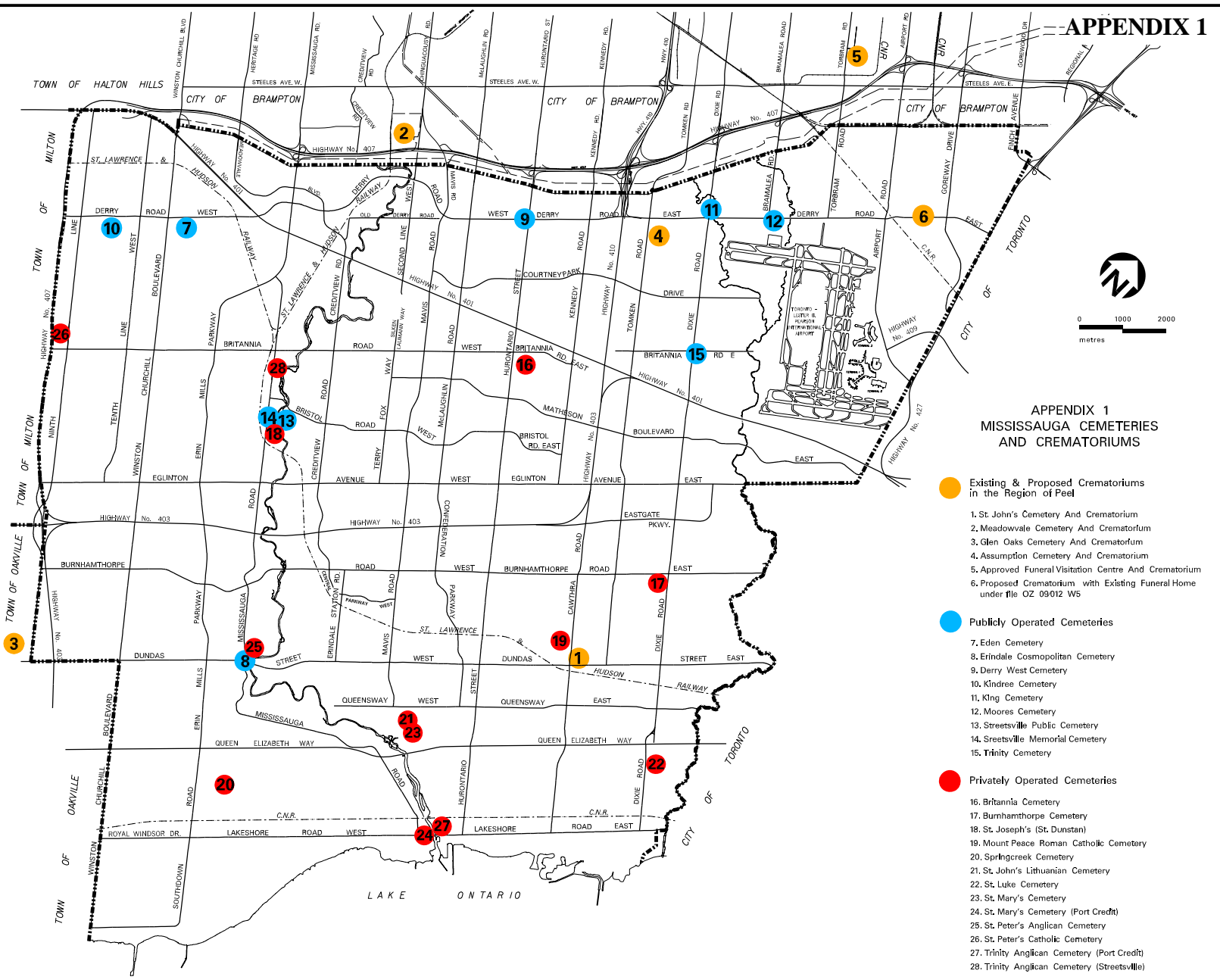
CONCLUSION: Staff have undertaken an examination of the impact of the *Funeral, Burial and Crematorium Services Act, 2002*, upon municipal regulations for crematoriums and identified a number of local planning issues. Revised regulations are proposed to address these concerns and at the same time, align local policies with the spirit and intent of the new Act and to offer greater bereavement options for the public.

ATTACHMENTS: APPENDIX 1: Mississauga Cemeteries and Crematoriums
APPENDIX 2: Letter dated Feb 1, 2012 from the Ministry of Consumer Services, Office of the Minister including Council Resolution No. 0237-2011
APPENDIX 3: Mississauga Official Plan (2011) – Lands Designated “Industrial” in the Gateway and Northeast Employment Character Areas Where New Crematoriums May Be Considered Subject to a Site Specific Rezoning Application

Original Signed By:

Edward R. Sajecki
Commissioner of Planning and Building

Prepared By: Paulina Mikicich, Planner, Policy Planning Division



Ontario Association of Cemetery and Funeral Professionals,
Except for the City of Brampton Site at 10 Bramwin Court –
and proposed City of Mississauga crematorium at 3263
Derry Road East

Ministry of
Consumer Services

Office of the Minister

6th Floor, Mowat Block
800 Bay Street
Toronto ON M7A 1L2
Telephone: 416 327-8300
Facsimile: 416 326-1947

Ministère des
Services aux consommateurs

Bureau de la ministre

Édifice Mowat, 6^e étage
800, rue Bay
Toronto ON M7A 1L2
Téléphone: 416 327-8300
Télécopieur: 416 326-1947



COUNCIL AGENDA

FEB 08 2012

MC93725MC-2011-1066

FEB 01 2012

RECEIVED

REGISTERED

Her Worship Mayor McCallion, C.M., LL.D.
Mayor of Mississauga
The Corporation of the City of Mississauga
300 City Centre Drive
Mississauga, ON L5B 3C1

DATE FEB 03 2012

FILE NO.

11/192

MAYOR'S OFFICE

Dear Mayor McCallion:

Thank you for the call with me and my staff to discuss a rezoning application that has been submitted to your municipality requesting approval to establish a crematorium in the basement of an existing funeral home. I also appreciate your taking the time to write to me about this issue and for enclosing a resolution asking that the *Funeral, Burial and Cremation Services Act, 2002* (FBCSA) or the regulations be amended to establish minimum separation distances from proposed crematoria to other sensitive land uses. I apologize for the delay in responding to you.

Through extensive consultation over the years, we have worked closely with industry operators and consumer groups both in the development of the new Act itself and its supporting regulations. These stakeholders included the Association of Municipalities of Ontario, the Association of Municipal Managers, Clerks and Treasurers and the Municipal Cemetery Working Group. Concerns regarding the location of crematoria were not raised during the consultation process.

The FBCSA establishes the regulatory framework for most of the bereavement sector, including cemeteries, funeral establishments, transfer services, crematoriums and staff employed by these businesses. The primary purpose of the Act is to ensure consumer protection including defined consumer rights and entitlements.

Under the FBCSA, which is scheduled to take effect on July 1, 2012, establishing a crematorium off cemetery property:

- may be permitted if municipal by-laws and strict environmental standards are met;
- will continue to require municipal approval;
- will require the Ministry of the Environment's environmental compliance approval, which includes strict emissions limits and requirements to ensure that the environment is not adversely affected.

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Municipalities may pass zoning by-laws under the *Planning Act* to control how land may be used, where buildings and other structures may be located and regulate other matters, including location, height and the size of buildings or structures. Where there are planning grounds, zoning by-laws may be passed in order to minimize or prevent land use conflicts and the locating of incompatible land uses. Municipalities have used separation distances to separate incompatible land uses in order to minimize the impact of the development of land.

While the issue of land use within a municipality remains a local matter, guidelines developed by the Ministry of the Environment are available to assist municipalities as they develop policies for land use compatibility. Each municipality continues to have the ability through its planning process to identify and impose unique requirements to address specific circumstances.

The MOE will ensure that stringent air standards are met before issuing an environmental compliance approval to establish a crematorium. An applicant must demonstrate to the MOE that it can meet all relevant air standards and operate in a way that will not cause adverse impacts to the community or environment. MOE regulations have set standards with regard to air quality for the protection of the environment and human health.

Before any consideration of an application for licensing under the FBCSA, municipal and MOE environmental approvals must be obtained. Absent these approvals, the application for a crematorium licence will not be considered.

Thank you, again, for writing.

Sincerely,


Margaret Best
Minister

c: The Honourable Kathleen Wynne, Minister of Municipal Affairs and Housing
The Honourable Jim Bradley, Minister of the Environment

<input checked="" type="checkbox"/> Receive	<input type="checkbox"/> Resolution
<input type="checkbox"/> Direction Required	<input type="checkbox"/> Resolution / By-Law
<input type="checkbox"/> Community Services <input type="checkbox"/> Corporate Services <input checked="" type="checkbox"/> Planning & Building <input type="checkbox"/> Transportation & Works	For <input type="checkbox"/> Appropriate Action <input type="checkbox"/> Information <input type="checkbox"/> Reply <input type="checkbox"/> Report



OFFICE OF THE MAYOR

October 13, 2011

Ministry of Consumer Services
 6th Floor, Mowat Block
 900 Bay Street
 Toronto, Ontario
 M7A 1L2

Dear Minister:

Re: Funeral, Burial and Cremation Services Act, 2002 and Regulations

The City of Mississauga has been dealing with a rezoning application to permit a crematorium in conjunction with an existing funeral home which is in close proximity to a residential area. A public meeting was held on September 6, 2011, at which the enclosed Planning staff report dated August 16, 2011, was considered. In addition to numerous emails and correspondence, many residents appeared at the Committee to express their objection to the proposed crematorium so close to their homes.

Subsequently, on October 12, 2011, the Council of the Corporation of the City of Mississauga adopted the enclosed Resolution 0237-2011 requesting changes to the Funeral, Burial and Cremation Services Act, 2002, and regulations to provide minimum separation distances from proposed crematoria to other sensitive land uses.

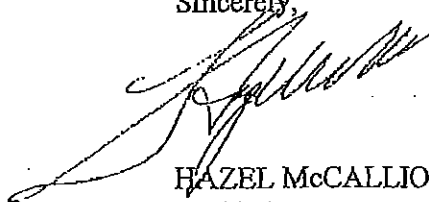


THE CORPORATION OF THE CITY OF MISSISSAUGA
 300 CITY CENTRE DRIVE, MISSISSAUGA, ON L5B 3C1
 TEL: 905-896-5555 FAX: 905-896-5879
 mayor@mississauga.ca

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Please give this matter your urgent attention as it is of grave concern to Mississauga Council and its residents. We look forward to receiving your positive response to the requested legislative changes.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Hazel McCallion', written over a horizontal line.

HAZEL McCALLION, C.M., LL.D.
MAYOR

cc: Minister of Municipal Affairs and Housing
Minister of the Environment
Mississauga MPPs
Clerk, Region of Peel
Clerk, City of Brampton
Clerk, Town of Caledon
Association of Municipalities of Ontario

Encs.



RESOLUTION 0237-2011
 adopted by the Council of
 The Corporation of the City of Mississauga
 at its meeting on October 12, 2011

Moved by: Bonnie Crombie

Seconded by: Jim Tovey

WHEREAS on August 24, 2009, the City of Mississauga received Official Plan Amendment and Rezoning Applications submitted by 1429036 Ontario Inc., to permit a proposed crematorium in the existing funeral home on 3263 Derry Road East under File OZ 09/012 W5;

AND WHEREAS these applications were deemed complete by the City on September 16, 2009;

AND WHEREAS on September 6, 2011, the City of Mississauga Planning and Development Committee held a Public Meeting pursuant to the provisions of the *Planning Act*, as amended regarding the proposal;

AND WHEREAS the legislation currently in effect, namely the *Cemeteries Act (Revised)* and the *Funeral Directors and Establishment Act* permit crematoriums only in cemeteries;

AND WHEREAS the Province has enacted the *Funeral, Burial and Cremation Services Act, 2002*, and passed related regulations which will permit crematoriums outside cemeteries;

AND WHEREAS the *Funeral, Burial and Cremation Services Act, 2002*, and related regulations are scheduled to come into force on July 1, 2012;

AND WHEREAS the regulations of the *Funeral, Burial and Cremation Services Act, 2002*, do not include a minimum separation distance requirement from a residential zone to a proposed crematorium;

AND WHEREAS the City of Mississauga is concerned about the proximity of the proposed crematorium to existing residential development;

Resolution 0237-2011

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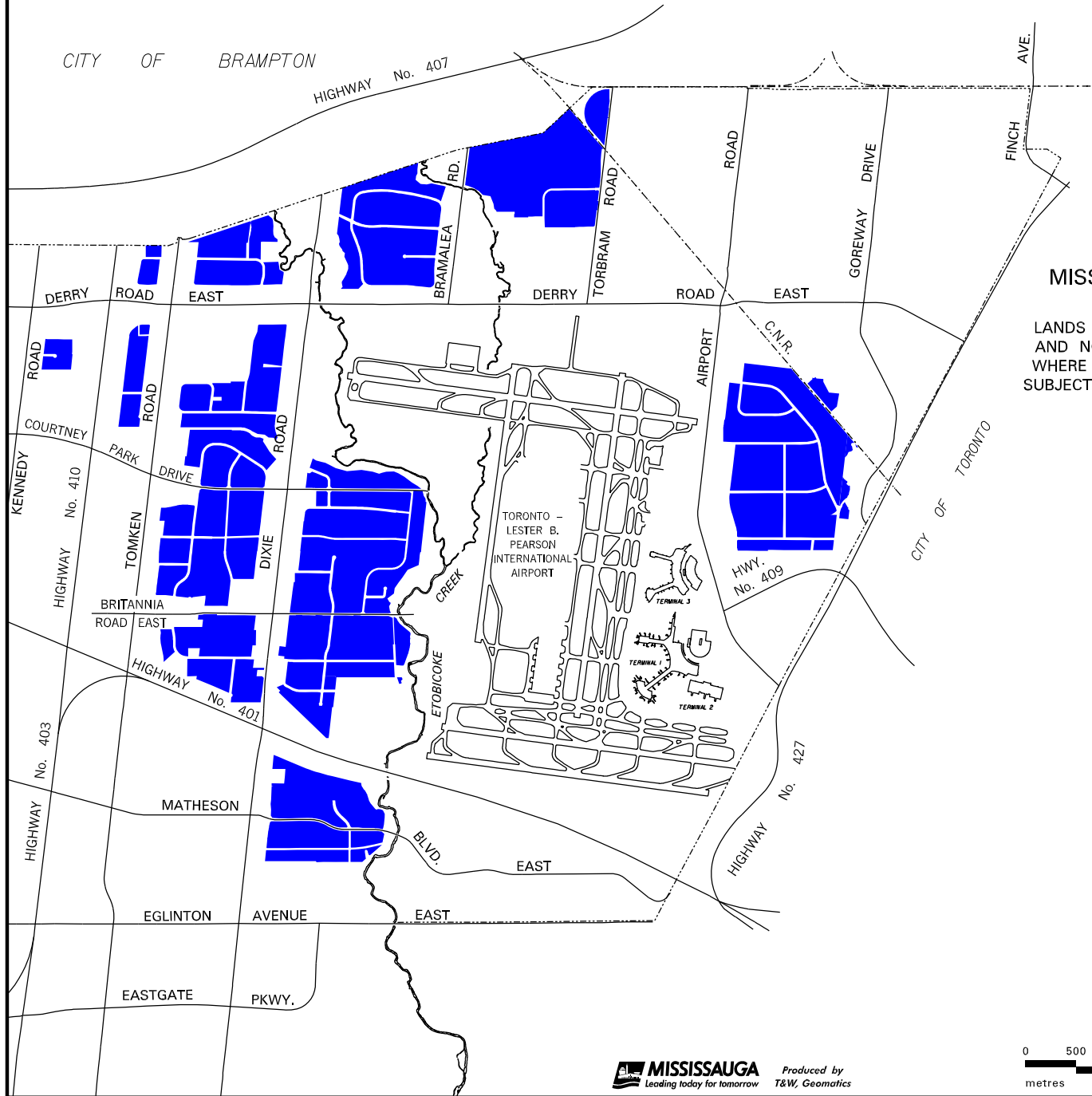
October 12, 2011

AND WHEREAS it would be premature for the City of Mississauga to approve the proposal prior to the coming into force of the legislation and regulations that would permit a crematorium to be located outside of a cemetery;

NOW THEREFORE LET IT BE RESOLVED:


1. That the Minister of Consumer Services, be requested to amend the *Funeral, Burial and Cremation Services Act, 2002* or the regulations there under to establish minimum separation distances from proposed crematoria to other sensitive land uses.
2. That a copy of this resolution be sent to the Minister of Consumer Services, Minister of Municipal Affairs and Housing, Minister of the Environment, all local Members of Provincial Parliament, Region of Peel and the local area municipalities and Association of Municipalities of Ontario(AMO).
3. That the Commissioner of Planning and Building be directed to review the Official Plan and Zoning By-law with respect to the Funeral, Burial and Cremation Services Act, 2002 and report back to Council with any recommended changes to policy and zoning by early 2012.

CITY OF BRAMPTON



APPENDIX 3
MISSISSAUGA OFFICIAL PLAN (2011)

LANDS DESIGNATED "INDUSTRIAL" IN THE GATEWAY
AND NORTHEAST EMPLOYMENT CHARACTER AREAS
WHERE NEW CREMATORIALS MAY BE CONSIDERED
SUBJECT TO A SITE SPECIFIC REZONING APPLICATION

 Industrial

