

DETAILED PLANNING ANALYSIS

City File Number: OZS-2020-0016

The information provided within this analysis are in support of the proposed temporary use by-law for the restaurant and take-out area within the existing structure at 18 Corporation Drive. The rationale provided indicates that provincial, regional and municipal planning documents support this temporary use. This does not necessarily mean that the use would be appropriate as a permanent use, but there is sufficient evidence to indicate that it is supportable as a temporary use.

Planning Act

Development applications must meet the criteria as set out in the *Planning Act*. For this development application, it must meet the criteria as set out in Section 2. The following provides a discussion to these sections.

Section 2:

In terms of the following matters, the application satisfies the requirement to have regard to the Matters of Provincial Interest set out in Section 2 of the *Planning Act*.

- (k) the adequate provision of employment opportunities
- (r) the promotion of built form that,
 - (i) is well-designed

As set out in more detail below, the application has appropriate regard to these matters. The applicant will not have to complete a Site Plan process as the building already exist and there are no changes to the building.

Section 39:

The application also have regards to Section 39 of the *Planning Act*, specifically sections:

39 (1) That council of a local municipality may, in a by-law passed under section 34, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited by the by-law; and,

39 (2) A by-law authorizing a temporary use under subsection (1) shall define the area to which it applies and specify the period of time for which the authorization shall be in effect, which shall not exceed three years from the day of the passing of the by-law.

The application is of a temporary nature and will not, with this application, change the employment capabilities of the area. The proposed by-law is only for a three year

period. The by-law also specifies that the use is only for a specific use (restaurant and take-out).

The application fulfills the requirements as identified within the *Planning Act*, specifically Sections 2 and 39. It is acknowledged that the proposed plan is temporary in nature and does not significantly deviate from the overall intent of the lands or building.

Provincial Policy Statement (2020)

Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the *Planning Act*. The applications are consistent with the Provincial Policy Statement, specifically the following policies:

Section 1.1.1 – healthy, livable and safe communities are sustained by:

- a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;
 - the proposed land use change will not significantly impact the area or the demise of the employment in the area. The use of the leasable area within the building provides an employment opportunity.
- c) avoiding development and land use patterns which may cause environmental or public health and safety concerns;
 - the proposed land use change does not propose any changes to the building.
- d) promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs.
 - The proposed land use change is located within an existing building that will capitalize on the surrounding land uses.

The proposed temporary land use change is appropriate and avoids risks to public health and safety in respecting the adjacent existing land uses.

2020 Growth Plan for the Greater Golden Horseshoe

The Growth Plan for the Greater Golden Horseshoe includes policy and direction intended to accommodate and forecast growth in complete communities. These are communities that are well designed to meet people’s needs for daily living throughout an entire lifetime by providing convenient access to an appropriate mix of jobs, local services, public service facilities, and a full range of housing to accommodate a range of incomes and household sizes. The subject applications conform to the policies of the Growth Plan for the Greater Golden Horseshoe.

The relevant policies contained within the Growth Plan that are implemented by this particular development proposal are included in Section 2.2.1 Managing Growth. According to Section 2.2.1, within settlement areas, growth is to be focused in:

- delineated built-up areas;
- areas with existing or planned public service facilities.

The proposal conforms to Section 2.2.1 of the Growth Plan by contributing towards creating complete communities that feature a diverse mix of land uses and convenient access to local stores, services, and public service facilities.

Regional Official Plan

The property is located within the “Urban Systems” designation in the Regional Official Plan. The subject applications conform to the Region of Peel Official Plan, including the policies set out below.

Section 5.3.1.3 - “To establish healthy urban communities that contain living, working and recreational opportunities, which respect the natural environment, resources and the characteristics of existing communities”.

Staff is of the opinion that the temporary land use will not destabilize the Industrial character of the area. The inclusion of some temporary additional restaurant uses within the building will not significantly impact the overall character of the area.

Section 5.3.1.4 - “To achieve intensified and compact form and a mix of land uses in appropriate areas that efficiently use land, services, infrastructure and public finances while taking into account the characteristics of existing communities and services”.

Staff recognizes that the proposed temporary land use does not comply with the policies regarding the conversion of the lands at this time, staff is supportive of the temporary land use change as the lands are located in a transition area. The lands are located north of a secondary school and east of a residential community. The inclusion of restaurant related uses within this building can be supported, the total amount of building dedicated to the use is the limiting factor for this particular use.

5.6.2.6 – “Protect and support employment areas for employment uses, as a defined and designated in area municipal official plans.”

The proposed temporary land use does not fully protect and support employment uses. A Municipal Comprehensive Review (MCR) would be required for this use to be permanent. The MCR requirements which are outlined further in Section 5.6.2.8 would be applied to this application if it were to be applied as a permanent use.

The proposed temporary land use change will not have a negative impact on the character of the area or significantly change the use of the building from what is currently permitted. While it is understood that the temporary use is not in compliance with the Region’s Official Plan policies, it is also recognized that for the use to be permanent a MCR would have to be approved.

Official Plan

The property is designated as “Industrial” on Schedule A – General Land Use in the Official Plan. The “Industrial” designation permits predominantly industrial land uses, but does also permit a range of other accessory uses including office, retail and commercial.

The first policy with respect to the Industrial designation (Section 4.4.2.1) provides the framework for the Industrial designation. The proposed temporary use is not industrial in nature, but does have the possibility of fitting in.

4.4.2.1 The Industrial designations identified on Schedule "A" of this Plan shall provide for the development of industrial, manufacturing, distribution, mixed industrial/commercial, commercial self-storage warehouses, data processing and related uses and limited office uses, and may also permit limited service and retail uses, open space, public and institutional use as practical and appropriate subject to the appropriate sub-designations and policies in the relevant Secondary Plan. Within the Industrial designation, areas intended for open storage and truck trailer parking shall be identified in the relevant Secondary Plan. Places of Worship shall be permitted in limited locations subject to Section 4.9.8 of this Plan.

The Official Plan provides further information as to what extent, and in which plans the commercial and retail uses can be integrated into the industrial lands. The Bramalea North Industrial Secondary Plan primarily permits industrial uses.

4.4.2.5 It is intended that, through Secondary Planning, the Industrial designation will be further refined into various sub-designations and that specific policies will be set out with respect to office, retail and service uses, and restaurant uses, along with the appropriate requirements and restrictions as follows:

(i) Sub-Designations in Secondary Plans that Permit Primarily Industrial Uses:

(b) Retail Uses: Ancillary and limited retail and business serving uses within industrial malls. The retail uses shall be limited to those which are not engaged in the selling of food and which by their function are not accommodated within the retail hierarchy for non-industrial areas as set out in Section 4.3.2 of this Plan;

(d) Restaurant Uses: Restaurant uses may be permitted on lands designated Industrial in Secondary Plans subject to the following criteria:

- One restaurant per industrial mall with restrictions on the maximum Gross Leasable Area of the restaurant use to be set out in the respective Secondary Plan and/ or Zoning By-law.

The policy provided above provides limitations as to the retail, and specifically restaurant, uses that are permitted within the Industrial zone. The intent is that the Industrial lands are not inundated with a significant amount of food related uses. It is

intended that the restaurants provide only to the employees in the area. The proposed temporary land use is located at the edge of an industrial area. Since the property already has one restaurant use, this designation as well as the Zoning By-law do not permit the proposed additional restaurant use.

Finally, the Official Plan does provide an opportunity for the applicant to pursue a conversion of the lands so that the proposed use could be considered permanent. The applicant will have to complete additional work to proposed the use as permanent, but there is a method by which this can occur. The policies below, provide a basic outline for the criteria by which the lands could be redesignated.

4.4.2.18 An Official Plan Amendment to permit a non-employment use on lands designated Industrial shall only be considered based on a municipal comprehensive review which shall demonstrate that: i) There is a need for the conversion; ii) The City will meet the employment forecasts as set out in Section 2 of this Plan; iii) The conversion will not adversely affect the overall viability of the employment area and achievement of the intensification target, density targets and other policies of this Plan; iv) There is existing or planned infrastructure to accommodate the proposed conversion; v) The lands are not required over the long term for the employment purposes for which they are designated; and, vi) Cross-jurisdictional issues have been considered. For the purposes of this policy, residential, retail in excess of 1,000 square metres (individual store or cluster of stores) and non-ancillary uses are considered non-employment uses.

An amendment to the Official Plan "Industrial" land use designation is required if the applicant seeks out a permanent Zoning By-law Amendment. However, at this time the amendment is temporary and will be required to meet the intent of the Official Plan.

With respect to the temporary nature of the zoning by-law the Official Plan provides criteria for determining if it is appropriate. The following sections of the Official Plan are in reference to Section 5.10 Temporary Use By-laws.

5.10.1 The City may enact temporary use by-laws for renewable periods of not more than 3 years, permitting the use of land, buildings or structures on a temporary basis. The provisions of Section 39 of the Planning Act, 1990, regarding the enactment and subsequent extensions to such by-laws shall apply.

The applicant is requesting a 3 year by-law. This is in accordance with this policy.

5.10.2 The City shall, in considering the enactment of a temporary use by-law, be satisfied that: (i) The proposed temporary use does not create or aggravate any situation detrimental to adjacent complying uses;

Staff is of the opinion that the temporary restaurant use will not aggravate the area.

(ii) The temporary use does not adversely affect surrounding uses in terms of air pollution, odour, noise, light or traffic generation;

Staff are of the opinion that the temporary restaurant use will not significantly affect the surrounding uses in terms of air pollution, odour, noise, light or traffic generation.

(iii) The temporary use does not interfere with the development of adjacent areas that are developing in accordance with this Plan;

Staff are of the opinion that the temporary use will not interfere with the adjacent areas.

(iv) Adequate provision will be made for off-street parking and loading facilities; and,

Staff are of the opinion that there is adequate parking and loading facilities.

(v) The temporary use does not create a service demand that the City and other relevant public authorities cannot fulfill.

Staff are of the opinion that the temporary use will not create a service demand that could not be fulfilled elsewhere.

5.10.3 Temporary Use by-laws may be passed without the necessity of amending this Plan provided the use is a temporary one which utilizes largely existing or temporary buildings and structures and does not require the extensive construction of permanent buildings or structures or, the significant alteration of the land to accommodate the temporary use.

This last policy is critical in that enables the Zoning By-law to be temporarily amended without meeting all of the criteria within the Official Plan. This means, while the additional restaurant use is not in keeping with the Official Plan policies of retaining a certain amount of industrial uses within the building, that the use can be temporarily permitted.

Staff is of the opinion that the temporary Zoning By-law does meet the intent of the Official Plan.

Secondary Plan – Bramalea North Secondary Plan Area 13

The proposed development is located within the Bramalea North Secondary Plan Area 13 (SP13). Provided below are some of the highlighted policies that the development adheres to and that it does adhere to.

The lands are designated “Open Space”, “Prestige Industrial” and “General Industrial”. Part the lands are designated as “General Industrial”, this covers only a portion of the lands. As the lands are developed as a whole, the overwhelming majority of the lands

are designated as “Prestige Industrial”. As such, for the purposes of this application, only the Prestige Industrial designation will be applied for the Industrial lands.

Open Space

The lands on the easterly side of Torbram Road are designated as Open Space. These lands were designated as such to ensure that there was a buffer along the edge of the road. The lands on the west side of Torbram Road are residential. This Open Space designation provides a buffering. The following excerpt from SP13 states the following:

3.3.2 The lands designated Open Space abutting the easterly limits of Torbram Road, the southerly limits of Williams Parkway and the westerly limits of Airport Road are intended to provide a land use buffer between potentially incompatible residential uses, and to achieve a high degree of visual amenity from abutting arterial roads. Accordingly, landscape and buffering treatments will be required, as deemed appropriate by the City.

The application does not propose to change this designation and the proposed by-law will not have an impact on this designation. Staff are of the opinion that the intent of the Open Space designation is met.

Prestige Industrial

The lands are located within the Prestige Industrial designation. The designation is intended to include essentially clean manufacturing and larger format businesses that would not interfere with the uses that are permitted within the adjacent General Industrial. The Secondary Plan provides the following framework for the permissions within this designation as follows:

3.1.2 The uses permitted on lands designated Prestige Industrial on Schedule SP13(a) shall be: (i) manufacturing, processing assembling, packaging, fabricating, warehousing and storage within wholly enclosed buildings; (ii) office space directly associated with an industrial activity, within the same structure; (iii) business and administrative office buildings; (iv) government service buildings; (v) research and development facilities; and (vi) product showroom and display facilities

3.1.3 The permitted uses within the Prestige Industrial designation shall be established on landscaped lots in a park like surrounding. A high standard of conceptual building design shall be required, and undeveloped portions of lots shall be landscaped to achieve the intended prestige image. In this regard, no outside storage shall be permitted.

The size and constraints of the building limit the amount of manufacturing that can be accommodated. The applicant has indicated that the height of the roof is a limiting factor as well for industrial uses. This limits the amount of uses that can operate within the building, which is located within an Industrial designation.

The designation does identify business and administrative office buildings as well as product showroom and display facilities as uses that are compatible. While these uses

are different than the proposed restaurant uses, there is some relatability to these uses. The SP13 does not permit a prevalence of retail uses, but the City does have the ability to permit some additional uses temporarily.

The uses within the building are primarily commercial in nature. Due to the amount of commercial uses within the building it is now primarily used for commercial uses and is not considered to be industrial. With the temporary zoning by-law this will allow the applicant to temporarily use an additional unit within the building for retail (restaurant) uses. This will also provide the applicant time to complete a MCR to redesignate the lands. If, in the event that the applicant does not complete an MCR, this use will not be permitted.

Zoning

The properties are currently zoned “Industrial Three Section 363 (M3A-363)” by By-law 270-2004, as amended. A Temporary use to the Zoning By-law is required to permit the proposed retail (restaurant) uses. This Recommendation Report includes a copy of the proposed temporary Zoning By-law required to be passed by Council in the event that the application is approved.

The proposed temporary Zoning By-law includes an additional use and two specific requirements and restrictions that will allow for the temporary use of the restaurant. The current by-law (M3A-363) permissions will still apply to the property.

Below is the text from the proposed By-law. This temporary by-law does not replace the existing by-law, but is another layer within the permissions – a temporary use. There is not a new by-law which creates a new zone, but rather a temporary permission within the existing by-law.

1. Notwithstanding Sections M3A-363.1 and M3A-363.2 of By-law 270-2004, for the lands shown on Schedule A hereto:
 - (1) One take-out restaurant shall be permitted, and
 - (2) The following requirements and restrictions shall apply:
 - a) The maximum gross commercial floor area for a temporary take-out restaurant shall be 136 square metres;
 - b) The combined gross commercial floor area for a dining room restaurant and a temporary take-out restaurant shall be 369 square metres.
2. This Temporary Use Zoning By-Law expires on January 27, 2024, unless extended by further resolution of Council.

Land Use

The proposed temporary restaurant uses are appropriate for the subject lands given that the subject lands are located at the edge of an industrial area, are north of a secondary school and west of an existing residential setting. The proposed restaurant use does have more retail and commercial uses, but is still fitting with the character of the area. The building will not be changing and the location of the proposed temporary use is fitting for the area.

Additional justification and materials will be required for this use to be permanent. As implied, confirming that the approval of the temporary use does not mean that it is necessarily appropriate for a permanent use. In the interim, the restaurant uses will provide a service that the applicant has determined will survive in this area. The use will service the uses within the direct vicinity and will not be attracting patrons into the industrial area.

Urban Design

The applicant has not proposed any changes to the exterior of the building. Staff did not require any materials related to urban design.

Transportation/Traffic

The applicant has not proposed any changes to the exterior of the building. Staff did not require any materials related to transportation or traffic.

Engineering and Noise

The applicant has not proposed any changes to the exterior of the building. Staff did not require any materials related to engineering or noise.

Environmental, Sustainability Score and Summary

The applicant has not proposed any changes to the exterior of the building. Staff did not require any materials related to environmental factors.