

Wednesday, September 7, 2011

NOTICE OF DECISION
CONSENT
(Section 53 of the Planning Act)

File Number:	B013/11NY	Zoning	RM6(126) - Exception to Multiple Family Dwelling Zone; C1(110) - Exception to General Commercial Zone (WAIVER)
Owner(s):	CONCORD ADEX DEVELOPMENT	Ward:	Willowdale (24)
Agent:	AIRD & BERLIS LLP		
Property Address:	1001 SHEPPARD AVE E	Community:	North York
Legal Description:			

Notice was given and the application considered on Wednesday, September 7, 2011, as required by the Planning Act.

THE CONSENT REQUESTED:

This is an application for the division of the lands into three parts for conveyance purposes to create a new building lot, for lot additions to the lands to the east, for the granting of easements/rights-of-way and the consents to mortgage.

The lands concerned have 192.41m fronting onto the south side of Sheppard Avenue East, a depth of approximately 387.02m and an area of 123,084m². The lands are the subject of the draft approved plan of subdivisions known as Concorde Park Place.

The lands to be severed being Parts 2 and 3 on the attached Plan would result in the creation of two new Development Blocks. The lands to be retained would be comprised of Parts 1, 4 to 13, 22, 23 and 24.

Parts 14, 15 and 16 would be added though lot additions to the lands to the east Parts 18, 19 and 21 (IKEA lands).

Parts 16 would be subject to an easement/right-of-way in favour of Parts 3, 4 and 5 of the retained lands and in favour of Parts 17 and 20 of the IKEA lands (lot additions) for the installation of services.

Parts 15 and 16 would be subject to an easement/right-of-way in favour of Parts 3, 4 and 5 of the retained lands and in favour of Parts 17 and 20 of the IKEA lands (lot additions) for vehicular and pedestrian access.

Parts 1, 4, 22, 23 and 24 would be subject to an easement/right-of-way in favour of Part 3 and Part 17 for the installation of services and vehicular and pedestrian access.

Parts 1, 22, 23 and 24 would be subject to an easement/right-of-way in favour of Part 2 for the installation of services

and vehicular and pedestrian access.

It is proposed to grant mortgages over Parts 3 and 17, over Part 2 and over Part 20.

It is proposed to partially discharge any one or more existing charge/mortgage from any one or more of Parts 2, 3, 14, 15 and 16.

This application is being considered in connection with Consent Application B014/11NY, to be considered by the Secretary Treasurer. This application deals with the lands located at 15 Provost Drive (IKEA lands) and results in lot additions to the subject property and easements/rights-of-way in favour of the subject property.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:

The Consent Application is Approved on Condition

The Committee has considered the provisions of Section 51(24) of the Planning Act and is satisfied that a plan of subdivision is not necessary. The Committee therefore consents to the creation of new lots as shown on the plan attached to this decision on the condition that before a Certificate of Consent is issued, as required by Section 53(42) of the Planning Act, the applicant is to file the following with the Committee office within ONE YEAR of the date of this Decision:

1. Confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division.
2. A draft Certificate of Official, as prescribed in O.Reg. 197/96 as Form 2 or 4, in a form satisfactory to the Deputy Secretary-Treasurer, that includes a completed and registerable description of the land that is the subject of the consent, shall be submitted to the Deputy Secretary-Treasurer within one year of the date of the giving of notice of this decision.
4. **Two copies of the registered reference plan of survey** integrated to NAD 83 CSRS (3 degree Modified Transverse Mercator projection), delineating by separate Parts the lands and their respective areas, shall be filed with City Surveyor, Survey & Mapping, Technical Services.
5. Municipal numbers for the subject lots indicated on the applicable Registered Plan of Survey shall be assigned to Parts 2 and 3, to the satisfaction of Survey and Mapping Services, Technical Services.
6. **Three copies of the registered reference plan of survey** satisfying the requirements of the City Surveyor, shall be filed with the Committee of Adjustment.
7. Within **ONE YEAR** of the date of the giving of this notice of decision, the applicant shall comply with the above-noted conditions and prepare for electronic submission to the Deputy Secretary-Treasurer, the Certificate of Official, Form 2 or 4, O. Reg. 197/96,
8. Subsection 50(3) or (5) or subsection 53(42) of the *Planning Act*, as it pertains to the conveyed lands that form the of the lot additions.
9. The Owner shall enter into a Consent Agreement, which includes the following, in a form and content satisfactory to the City Solicitor and the Director, Technical Services, to secure the matters described in the Report from the Director, Community Planning dated August 25, 2011.

The Consent Agreement shall secure the following:

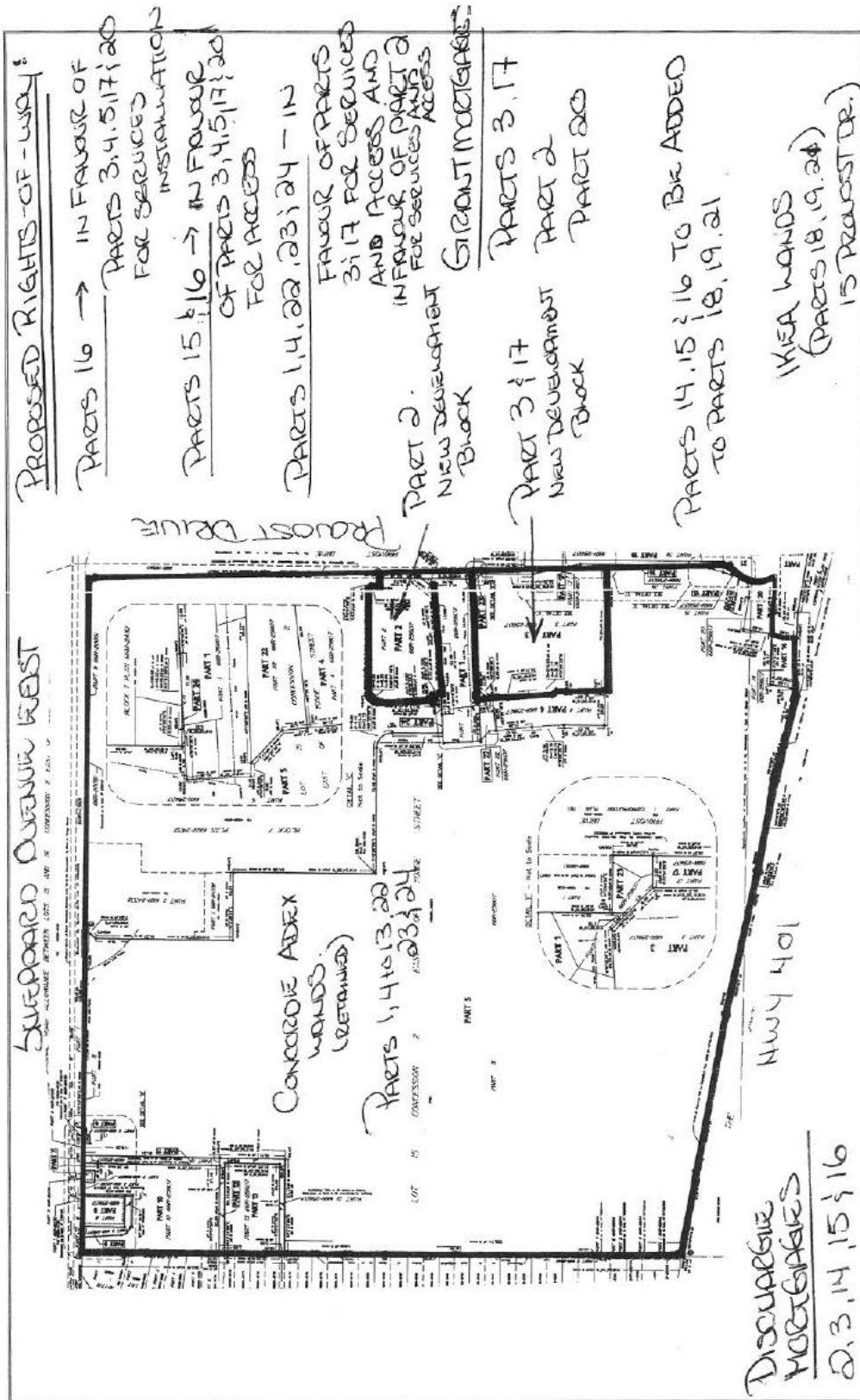
- (a) An agreement with the City, financial and otherwise for the construction of roads, installation of public services and the granting of all necessary easements for the construction, installation, and maintenance of all public services to the satisfaction of the City Solicitor and Director, Technical Services.
- (b) Agreement to convey Parts 1, 22, 23 and 24 to the City, free and clear of all encumbrances and at no cost to the City, for the purposes of future public roads.
- (c) The owner shall construct Parts 1, 22, 23 and 24 to municipal standards as public roads and install all necessary public services to the satisfaction of the Director, Technical Services prior to the conveyance of these lands to the City.
- (d) Prior to the deed being registered for Parts 2 and 3, the owner shall provide an undertaking to the satisfaction of the City Solicitor and the Director of Community Planning, North York District that an appropriate streetscape plan will be completed in conjunction with the revised Master Streetscape Plan for the portion of Part 2 and Part 3 abutting the public streets and that securities for the costs of the said portions of the revised Master Streetscape Plan will be posted prior to the issuance of any building permit within Phase 3 except for Part 3. The securities will be based upon the existing Master Streetscape Plan and will be to the satisfaction of the Director, Community Planning, North York District.
- (e) With respect to the City Street Tree By-law and the Private Tree By-law, Municipal Code Chapter 813, Trees, Articles II and III, prior to the deed being registered for Parts 2 and 3, the owner shall provide an undertaking to the City that an appropriate planting of public trees will be completed in conjunction with the revised Master Streetscape Plan for the lands west of Provost Drive and that securities in the amount of \$12,242.00, or such other amount as may be satisfactory to the General Manager, Parks, Forestry and Recreation for the planting of public trees that apply to Part 3 will be posted prior to the issuance of any building permit within Phase 3 except for Part 3. The securities for the planting of public trees for Part 2 will be paid in accordance with Urban Forestry comments to be provided for Site Plan application file No 11 234661 NNY 24 SA
- (f) No public works shall be commenced without the approval of the Director, Technical Services. Work which requires approvals from the Ministry of the Environment or other ministries, agencies, boards or commissions shall not be commenced until such approvals are obtained.
- (g) The public infrastructure work shall be constructed by the owner at any time after the provisional Consent is Final provided that:
 - (i) The owner sign and adhere to an Infrastructure Agreement to the satisfaction of the Director, Technical Services; and
 - (ii) The owner pays an engineering review fee of 5% of the approved estimated construction cost of the required works.
- (h) Any existing redundant curb cuts must be closed and restored to the satisfaction of the Director, Technical Services.
- (i) A functional servicing report and co-ordinated utilities plan shall be approved prior to the construction of Public Works, to the satisfaction of the Director, Technical Services.
- (j) Arrangements satisfactory to the Director, Technical Services shall be set out in the Agreement with respect to the installation and/or the eventual assumption or removal of any temporary fire hydrant(s).
- (k) Prior to initiating any grading on the site, a stormwater management plan and an erosion and sediment control plan shall be submitted and approved to the satisfaction of the Director, Technical Services.

- (l) With respect to the Environmental Site Assessment, the owner shall:
- (i) Retain a Qualified Person to conduct environmental site assessments for the lands to be conveyed to the City.
 - (ii) Submit all environmental site assessment reports prepared in accordance with the Record of Site Condition Regulation (O. Reg. 153/04) describing the current conditions of the land to be conveyed to the City and the proposed remedial action plan based on the site condition standards approach, to the Director, Technical Services, for peer review, prior to the registration of the deeds and secured under the Consent Agreement.
 - (iii) Pay all costs associated with the City retaining a third-party peer reviewer including a 7% administrative cost to the City, and submit certified cheques payable to the City of Toronto in the amounts of \$3,000.00, as an initial deposit towards the cost of the peer review to the Director, Technical Services. Submit further deposits when requested to cover all costs of retaining a third-party peer reviewer and associated administrative costs to the City.
 - (iv) At the completion of the site remediation process, submit a Statement from the Qualified Person to the Director, Technical Services, for peer review and concurrence, that, based on all necessary supporting environmental documents:
 - (1) The land to be conveyed to the City meets the Site Condition Standards of the intended land use OR the most environmentally sensitive adjacent land use, whichever is more stringent; and
 - (2) It is unlikely that there is any off- site contamination resulting from past land uses on or in the vicinity of the development site, that has migrated on to the adjacent rights-of-way, that would exceed the applicable Site Condition Standards.
 - (v) File the Record of Site Condition (RSC) on the Ontario's Environmental Site Registry and submit the Ministry of the Environment's Letter of Acknowledgement of Filing of the Record of Site Condition (RSC) confirming that the RSC has been prepared and filed in accordance with O. Reg. 153/04, to the Director, Technical Services;
- (m) The owner agrees to pay all costs of the title sub search and registration required to carry out the transfer of lands to the City.
- (n) The owner will contribute 1% of the gross construction cost of development of Parts 2 & 3 for the provision of public art.
- (o) Development charges shall be payable prior to the issuance of individual building permits.
- (p) Prior to the issuance of the first above grade building permit west of Provost Drive, the owner shall provide the General Manager of Parks, Forestry and Recreation with an irrevocable letter of credit for the required Parkland Development component of the City-wide development charge for the residential development for Part 2 and Part 3 as set out under Part A of Schedule "P" (Subdivision Agreement, Phase 3, dated October 7, 2005). The owner will be credited this work against the Parks and Recreation Component of the Development Charges associated with Part 2 and 3 lands but in no case shall the credit exceed the Park and Recreation component of the development charges. (consistent with Item B.5.15 of the Subdivision Agreement, dated October 7, 2005).
- (q) All stated letters of credit, for the required Parkland Development that are to be provided by the Owner, unless determined otherwise by the General Manager, Parks, Forestry and Recreation, are intended to be in current dollars and accordingly, shall be adjusted, either upwards or downwards, annually, on the

anniversary of the date of execution of the associated Consent agreement, in accordance with the change in the Construction Price Index during such one year period, provided, however, that in no case shall the amount actually payable by the owner at any time be less than the minimal amount set out in the agreement. (consistent with Item B5.25 of the Subdivision Agreement, dated October 7, 2005).

- (r) The lands west of Provost Drive, including Parts 2 and 3, are eligible for development charge credits as set out in Item D.2.5 of the Subdivision Agreement dated October 7, 2005. These credits shall remain applicable to units constructed within the gross floor area permitted prior to any variances being approved. As the Owner is requesting additional gross floor area on Part 3, which will presumably result in additional units, and which would therefore change the amount of total development charge credits, credits attributable to units built within the additional gross floor area will be subject to a review and decision as part of the ongoing comprehensive review of the lands west of Provost Drive.
- (s) The Agreement shall bind and shall be registered on title to Parts 1, 2, 3, 22, 23 and 24 and shall supersede and replace the Subdivision Agreement dated October 7, 2005 with respect to Parts 1, 2, 3, 22, 23 and 24 outlined in the Draft Reference Plan dated July 2011 by Lloyd & Purcell Limited, Surveyors.
- (t) Upon registration of the Consent Agreement, the Chief Planner shall amend the Draft Approval 55T00503 to delete Parts 1, 2, 3, 22, 23 and 24 from the Draft Plan of Subdivision Approval.
- (u) The owner agrees not to apply for a minor variance in respect of Part 2 prior to the approval of the rezoning application 10 227038 NNY 24 OZ, which application shall continue to include the Part 2 lands.
- (v) An undertaking by the Owner, with wording satisfactory to the City Solicitor and the Director of Community Planning, North York District that for Part 2, the Owner will not proceed with construction of a foundation prior to issuance of a Notice of Approval Conditions or above grade construction prior to final site plan approval. In the event that agreement cannot be reached on appropriate wording for the undertaking, then a 0.3 metre (1 foot) reserve on the public right-of-way abutting the south property line of Part 2 shall be conveyed to the City.

COMMITTEE OF ADJUSTMENT		File: B013/11NY	Toronto
Address: 1001 SHEPPARD AVENUE EAST			North (Plans Only)



SIGNATURE PAGE

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Property Address:	1001 SHEPPARD AVE E	Community:	North York
Legal Description:			

Donald Di Prospero (signed)

Isaac Lallouz (signed)

Ronald Forbes (signed)

DATE DECISION MAILED ON: Thursday, September 15, 2011

LAST DATE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD: Tuesday, October 4, 2011

CERTIFIED TRUE COPY

Denise Rundle (signed)
Manager & Deputy Secretary Treasurer
North York Panel

To appeal this decision to the Ontario Municipal Board, send a completed OMB Appellant Form (A1) to the Manager & Deputy Secretary-Treasurer, Committee of Adjustment. You must pay a filing fee of \$125.00, by certified cheque or money order, in Canadian funds, payable to the Minister of Finance. An additional reduced fee of \$25.00 is required for each connected appeal filed by the same appellant. To obtain a copy of Appellant Form (A1) and other information about the appeal process please visit the Ontario Municipal Board web site at www.omb.gov.on.ca.

NOTE: Only individuals, corporations and public agencies may appeal a decision to the Ontario Municipal Board. The appeal may not be filed by an unincorporated association or group. However, the appeal may be filed in the name of an individual who is a member of the association or group on its behalf.