

Committee of the Whole (1) Report

DATE: Tuesday, May 2, 2023

WARD: 2

TITLE: MIMOON INC. AND MIBOوبا INC.

**A BY-LAW TO DEREGISTER BLOCKS 8, 9 AND 10, PLAN 65M-3966 FROM THE PLAN OF SUBDIVISION
175, 191 AND 209 MILANI BOULEVARD
VICINITY OF MILANI BOULEVARD AND HIGHWAY 27**

FROM:

Haiping Xu, Deputy City Manager, Planning and Growth Management

Wendy Law, Deputy City Manager, Legal and Administrative Services & City Solicitor

ACTION: DECISION

Purpose

To seek approval to deem Blocks 8, 9 and 10 on Plan 65M-3966 not to be blocks within a registered plan of subdivision pursuant to subsection 50(4) of the *Planning Act*.

Report Highlights

- The passing of a Deeming By-law and registering it on title deregisters a plan of subdivision, allowing two or more lots or blocks, which are owned by the same person, to merge in title, thus becoming one property.
- Deregistration of Blocks 8, 9 and 10, from registered plan of subdivision 65M-3966 will allow the blocks to merge as one property on which a new employment building is proposed to be constructed.
- Legal merger of title of the parcels is required to protect against the conveyance of separately conveyable parcels.

Recommendations

1. THAT Council enact a by-law to deem the lands legally described as Blocks 8, 9 and 10 on Plan 65M-3966 not to be blocks within a registered plan of subdivision for the purposes of subsection 50(3) of the *Planning Act* RSO 1990, c. P.13, as amended;
2. THAT the by-law be registered on title to the lands in accordance with Sections 50(27) and 50(28) of the *Planning Act*; and
3. THAT the City Clerk provide notice of passage of the by-law as required by subsections 50(26) and 50(29) of the *Planning Act*.

Background

Location: 175, 191 and 209 Milani Boulevard ('the Subject Lands'). The Subject Lands and the surrounding land uses are shown on Attachment 1.

A Site Development Application is under review for the Subject Lands

Mimoon Inc. and Mibooba Inc. (jointly, the 'Owner') submitted Site Development File DA.21.062 to permit a single two-storey employment building on 175, 191 and 209 Milani Boulevard (the 'Development') as shown on Attachment 2. City staff reviewed the application for the Development on the basis that the Subject Lands will be consolidated to facilitate the Development on a single parcel of land.

A Deeming By-law is required to permit the Development

The Subject Lands consist of three separate parcels of land legally described as Blocks 8, 9 and 10, on Plan 65M-3966. Prior to the issuance of site plan approval, the Owner is required to consolidate and merge title to the Subject Lands as one property. The Owner has consolidated the PINs with the Land Registry Office, but from a legal perspective, the consolidation of PINs is not sufficient to allow the three parcels to merge as one property.

Consolidation of parcels takes place when two or more abutting parcels under a single ownership are consolidated at the land registry office pursuant to an Application to Consolidate Parcels. Consolidation of parcels creates a single parcel register but it does not create a merger of title when dealing with property that is the whole of a lot or block within a registered plan of subdivision. Even if two or more adjoining whole lots or blocks within a registered plan of subdivision are owned by the same person or entity, such blocks or lots would remain separately conveyable parcels.

Pursuant to the *Planning Act*, a landowner cannot convey part of a lot or block within a registered plan of subdivision without further approvals under the Planning Act (part-lot control exemption or consent application). However, subsection 50(3) of the *Planning Act* allows an owner to convey the whole of a lot or block within a registered plan of subdivision. The ability to convey the whole of a lot or block would not be restricted by a consolidation of parcels or the fact that a single building or structure is located on the boundary line between two or more parcels. However, if such a conveyance were to occur, both Building Code and zoning compliance issues would arise due to insufficient fire separation and building setbacks between the parcels.

Previous Reports/Authority

Not applicable.

Analysis and Options

If Council does not pass a deregistration by-law, Blocks 8, 9 and 10, on Plan 65M-3966 will continue to be separately conveyable blocks within a registered plan of subdivision and could also be further subdivided by way of part lot control exemption or consent application. This is not considered appropriate given that a single employment building is proposed on the Subject Lands that must comply with the Ontario Building Code and the Zoning By-law. The only outstanding item prior to issuing Site Plan approval is the registration of a deeming By-law subject to this report.

In order to allow a single building to be constructed on two or more separately conveyable parcels within a registered plan of subdivision, legal merger of title to the parcels is required through deregistration of the plan of subdivision. This solves both the Building Code and Zoning By-law compliance issues.

Subsection 50(4) of the *Planning Act* allows a municipality by by-law to designate any plan of subdivision, or part thereof, that has been registered for eight (8) years or more, not to be a registered plan of subdivision for the purposes of subsection 50(3) of the *Planning Act*. Plan of Subdivision 65M-3966, of which the Subject Lands are located, was registered on March 16, 2007. Given that Blocks 8, 9 and 10, on Plan 65M-3966 are whole blocks within a registered plan of subdivision, the enactment of such a by-law with respect to Blocks 8, 9, and 10 Plan 65M-3966 will merge the parcels.

There is no right of appeal for property owners of Council's exercise of its authority to remove lots or blocks from a registered plan of subdivision under subsection 50(4) of the *Planning Act*.

Notice of the passing of the by-law will be required to be given within thirty (30) days of the passing in accordance with subsections 50(26) and 50(29) of the Planning Act. No notice is required prior to the passing of a by-law under subsection 50(4) of the Planning Act.

Notwithstanding the passing of the by-law, subsections 50(27) and (28) of the Planning Act state that a by-law passed under subsection 50(4) of the Planning Act is not effective until a certified copy or duplicate is registered in the proper land registry office.

Financial Impact

There are no financial implications.

Operational Impact

Site Development Application DA.21.062 was circulated to internal City departments and external agencies for review and comments. The Development Planning, Development Engineering and Zoning Departments require the Blocks to be consolidated prior to issuing final approval for the Site Development Application.

All other internal departments and external agencies have indicated they have no further comments on the Site Development Application and have provided conditions of approval to the Development Planning Department to include within the Site Plan Letter of Undertaking.

The request for a Deeming By-law was not circulated to internal City departments and external agencies for review and comment. The request was jointly reviewed by the Development Planning and Legal Services Department.

Broader Regional Impacts/Considerations

Not applicable.

Conclusion

Staff recommend the enactment and passing and subsequent registration of a by-law under subsection 50(4) of the *Planning Act* to deem Blocks 8, 9 and 10, on Plan 65M-3966 not to be blocks within a registered plan of subdivision. This will allow said blocks to merge as one property to facilitate the construction of a new employment building on the Subject Lands comprising the blocks.

For more information, please contact: Casandra Krysko, Senior Planner, ext. 8003.

Attachments

1. Context and Location Map.
2. Proposed Site Plan.

Prepared by

Cassandra Krysko, Senior Planner, ext. 8003.

Finuzza Mongiovi, Legal Counsel - Real Estate & Development, ext. 8047.

Mark Antoine, Senior Manager of Development Planning, ext. 8212.

Nancy Tuckett, Director of Development Planning, ext. 8529.

Approved by



Haiqing Xu, Deputy City Manager
Planning and Growth Management

Approved by



Wendy Law, Deputy City Manager,
Legal and Administrative Services &
City Solicitor

Reviewed by



Nick Spensieri, City Manager