



## Report Committee of Adjustment

**Filing Date:** November 17, 2023

**Hearing Date:** December 19, 2023

**File:** A-2023-0365

**Owner/  
Applicant:** Bovaird Commercial Centre Ltd (c/o Sandy Minuk)  
Weston Consulting c/o Jenna Thibault

**Address:** NW Corner Bovaird Drive West and Creditview Road

**Ward:** 6

**Contact:** Megan Fernandes, Assistant Development Planner

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### **Recommendations:**

That application A-2023-0365 is supportable, subject to the following conditions being imposed:

1. That the extent of the variance be limited to that shown on the sketch attached to the Notice of Decision;
  2. That the applicant finalize site plan approval under application SPA-2023-0007, execute a site plan agreement and post any required securities to the satisfaction of the Director of Development Services;
  3. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
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### **Background:**

The subject lands were previously severed as part of Consent Application B17-021. The following condition of approval was provided for 'orphaned parcels' as a result of this severance application:

"That the City agrees to initiate a zoning by-law amendment for any orphaned parcels of land resulting from the conveyances and requirements of the Consent agreement, if so requested by the owners. This amendment would serve to zone any orphaned parcels of land into the same zoning designation as the adjacent abutting parcel."

This application is also associated with ongoing Site Plan Application (SPA-2023-0007) which proposes to develop the subject property for a condominium development consisting of commercial and office uses. The proposal consists of four buildings, including three one-storey commercial buildings and one three-storey commercial building.

**Existing Zoning:**

The property is split zoned 'Commercial 3 – Special Section 3526 (C3-3526); Residential Apartment 4A – Special Section(s) 3523 and 3525 (R4A – 3523 and R4A – 3525) ', according to By-law 270-2004, as amended.

**Requested Variances:**

The applicant is requesting the following variances:

1. To allow Lands Zoned R4A-3522 and R4A-3523 on the attached sketch to permit the uses in the C3-3525 Zone and be subject to the requirements and restrictions of the C3-3525 zone;
2. To permit a 0.0m setback to lands zoned R4A-3522 and R4A-3523;
3. To permit a Mixed Use Development Building that is not within 25 metres of Lagerfeld Drive, whereas the By-law requires a Mixed Use Development Building having a minimum height of 2 storeys be located within 25 metres of Lagerfeld Drive;
4. To permit a 4.95 metre setback to a lot line abutting a public street, whereas the By-law permits a maximum setback of 4.5 metres to a lot line abutting a public street;
5. To permit a building height of 3 storeys for a Mixed Use Development building located within 12 metres of Bovaird Drive West, whereas the By-law Requires a minimum building height of 6 storeys for a Mixed Use Development Building located within 12 metres of Bovaird Drive West;
6. To allow all garbage, refuse and waste containers to be located outside of the Mixed Use Development Building and to permit the waste collection loading area to be located more than 9.0m from the main entrance, whereas the By-law requires all garbage, refuse and waste containers be located within the Mixed Use Development building and the waste loading area to be located a minimum of 9.0 metres from the main entrance;
7. To permit 210 parking spaces for the proposed uses, whereas the by-law requires a minimum 384 parking spaces for the proposed uses; and
8. To permit 2 loadings spaces, whereas the by-law requires a minimum of 3 loading spaces.

**Current Situation:**

1. Maintains the General Intent and Purpose of the Official Plan

The subject property is designated as "Residential" in the Official Plan and "District Retail" in the Mount Pleasant Secondary Plan (Area 51). The subject lands are located within the Mount Pleasant

Go Primary Major Transit Station Area. Furthermore, the subject lands are designated as “Mixed Use” (Schedule 2 – Designations) and located within the Primary Major Transit Station Area KIT - 4 (Schedule 1B – Major Transit Station Areas) in the Council approved Brampton Plan 2023.

As outlined in section 4.2.1.1 Residential designations shown on Schedule "A" permits complementary uses, other than Places of Worship, shall be permitted subject to specific Secondary Plan policies or designations, and may include uses permitted in the Commercial and Institutional and Public Uses designations of this plan, such as schools, libraries, parks, community and recreation centres, health centres, day care centres, local retail centre, neighbourhood retail, convenience retail, or highway and service commercial uses.

Within the Mount Pleasant Secondary Plan (Area 51) the ‘District Retail’ designation is a commercial designation which permits a range of commercial, retail and major freestanding office development based on planned transit and transportation infrastructure and the development of the Mount Pleasant GO Station as a mobility hub.

The requested variances have no impact within the context of the policies of the Official Plan and Secondary Plan, and maintains the general intent and purpose of the Official Plan. In relation to Variance 1, requested to zone the property a C3-3525, the proposed variance will facilitate the creation and development for future commercial development which is not contrary to the long term vision and intent of the area. Subject to the recommended conditions of approval, the requested variance maintains the general intent and purpose of the Official Plan.

## 2. Maintains the General Intent and Purpose of the Zoning By-law

The property is split zoned ‘Commercial 3 – Special Section 3526 (C3-3526); Residential Apartment 4A – Special Section(s) 3523 and 3525 (R4A – 3523 and R4A – 3525)’, according to By-law 270-2004, as amended.

### Variances 1 and 2

Variance 1 is requested to allow Lands Zoned R4A-3522 and R4A-3523 on the attached sketch to permit the uses in the C3-3525 Zone and be subject to the requirements and restrictions of the C3-3525 zone. Variance 2 is requested to permit a 0.0m setback to lands zoned R4A-3522 and R4A-3523. The purpose of the Zoning By-law is to ensure that the lands are developed in a manner that ensures compatibility with other uses permitted on site.

The use and setback variances are requested to extend the commercial uses across the entirety of the subject lands. Variances 2 and 3 are provided so that the development on the parcels will occur in one cohesive development. Staff have reviewed the requested uses provided by the applicant and note that there are no net new uses further proposed from what is already permitted within the R4A-3522, R4A-3523 and C3-3525 zones. The variances are requested to facilitate the development of a mixed use building for retail, commercial and office uses. The proposed variances are seen as supportive of the local employment base and the neighboring community. Given the property's surrounding context, it is not anticipated that the requested variances will adversely affect the operations of future units on the lands. Furthermore, staff have reviewed the zoning configuration of the lands as depicted in

appendix A, and are of the opinion that areas if the subject lands zoned R4A – 3523 and R4A – 3525 would nor be sufficient to facilitate the development of residential uses in accordance with the prescribed zoning. The variances are considered to maintain the general intent and purpose of the Zoning By-law.

#### Variance 3 and 4 (Mixed-Use Development Setbacks)

Variance 3 is requested to permit a Mixed Use Development Building that is not within 25 metres of Lagerfeld Drive, whereas the By-law requires a Mixed Use Development Building having a minimum height of 2 storeys be located within 25 metres of Lagerfeld Drive. Variance 4 is requested to permit a 4.95 metre setback to a lot line abutting a public street, whereas the By-law permits a maximum setback of 4.5 metres to a lot line abutting a public street. The intent of maximum and minimum building setbacks from a road is to ensure that the building is appropriately and uniformly positioned on the property in a manner that does not limit the functioning of the use on-site.

Aspects of the four (4) proposed buildings contemplates an 22m reduction to a mixed use development from Lagerfeld Drive, and a 0.3m increase setback to a mixed use development from a public or private street. The proposed development consists of approximately four (4) free standing buildings consisting of mixed-use office and commercial uses. Building A, depicted as the one storey food store is located within 3m of Lagerfeld Drive. Building D is a proposed mixed-use office and commercial building located along Eamont Road. The proposed reduced building setback was assessed through the review of the related site plan application. The proposed setbacks would be adequate to provide for an appropriately wide walkway and enough space to maintain the building. Furthermore, the proposed locations of the buildings ensures that the buildings are located closer to the street to enhance the streetscape. The proposed setbacks as requested in variance 2 and 3 will facilitate orderly functioning of the proposed development by mitigate potential vehicle circulation. The requested variances are not anticipated to negatively impact the mixed-use characteristic of the area.

#### Variance 5 (Building Height)

Variance 5 is requested to permit a building with a height of 3-storeys within 12 metres of Bovaird Dr. W., whereas the by-law requires a building with a height of 6-storeys within 12 metres of Bovaird Dr. W. Minimum building heights are included in the by-law to promote reasonable urban scale, create a visual setting and provide street animation and street edges. The applicant is seeking to reduce the building height of building D, which is a proposed 3-storey office and commercial retail building along Bovaird Drive West, whereas 6-storeys was originally contemplated. The reduced height is not anticipated to negatively impact adjacent properties. While full building height requirements of the Zoning By-law are not satisfied, staff are of the opinion that through appropriate urban design measures, these principles can still be incorporated with a lower building height. Furthermore, as the applicant states that the reduced height is necessary as there is insufficient space on the property to support the required parking to serve a 6-storey building permitted within the zoning by-law.

#### Variance 6 (Refuse Collection Bin)

Variance 6 is requested to allow all garbage, refuse and waste containers to be located outside of the Mixed Use Development Building and to permit the waste collection loading area to be located more

than 9.0m from the main entrance, whereas the By-law requires all garbage, refuse and waste containers be located within the Mixed Use Development building and the waste loading area to be located a minimum of 9.0 metres from the main entrance. The intent of the by-law in requiring refuse collection bins to be within the same building containing the use and located a minimum of 9.0 metres from the main entrance is act as a form of odour and pest control. In this case, the applicant is proposing to permit a shared refuse collection bin adjacent to building “A” to support building “D”. upon staff review of the site plan provided, the proposed use of building D is described as a three-storey Office and Commercial Retail Units, and building A is described a one-storey Food Store with 5 in-ground refuse bins. Locating the refuse bins in one location will enhance the functionality of the site as waste removal operations will be limited to one area. In-ground refuse bins are relatively new waste storage systems that provide similar levels of managing waste as opposed to being located within a building. The variance is anticipated to have minimal impact to the overall function of the property.

#### Variance 7 and 8 (Parking and Loading Spaces)

Variance 7 is requested to permit 210 parking spaces for the proposed uses, whereas the by-law requires a minimum 384 parking spaces for the proposed uses. The intent of the by-law in regulating minimum parking requirements is to ensure that the site can properly accommodate the parking demand generated by the permitted uses on the property. The applicant has submitted a Parking Justification Study which has been reviewed by Transportation Planning staff which demonstrated that the proposed 210 parking spaces on site will be sufficient for the uses operating from each unit. Further, the subject property is currently subject to a Site Plan Application (SPA-2023-0007) whereby Traffic staff have had opportunity to review and approve the parking configuration for the site. Subject to the recommended conditions of approval, the variance is considered to maintain the general intent and purpose of the zoning by-law.

Variance 8 is requested to permit 2 loading spaces, whereas the by-law requires a minimum of 3 loading spaces. The intent of the Zoning By-law in requiring a loading space is to facilitate efficient site operation for the property. The variance is not anticipated to impact the business operations or functionality of the subject property. As outlined by the applicant, based on the uses of the proposed development, the deliveries can be accommodated using the front door of the businesses by using a standard size parking space. Subject to the recommend conditions of approval, the variance maintains the general intent and purpose of the Zoning By-law.

#### 4. Desirable for the Appropriate Development of the Land

The lands are subject of a recently submitted Site Plan Approval application SPA-2023-0007 which proposes to facilitate the development of two one-storey and one three-storey mixed use buildings on the property. The use variances, building setbacks, refuse containers, parking and loading space variances are not anticipated to jeopardize the intent, character or functionality of the site or surrounding area. Furthermore a 174 parking space reduction is requested as part of the application. Traffic services staff have reviewed a parking study submitted as part of the Site Plan application and deemed it acceptable. The reduction in the amount of available parking spaces is not anticipated to generate negative impacts on-site or off-site. Should the variances be approved, the development will be subject to further detailed and technical review through the associated Site Plan approval, and a condition of

approval is recommended that the that the owner finalize Site Plan Approval under City File: SPA-2023-0007 and post any required financial securities and insurance to the satisfaction of the Director of Development Services. Subject to the recommended conditions, the proposed variance is desirable for the appropriate development of the land.

4. Minor in Nature

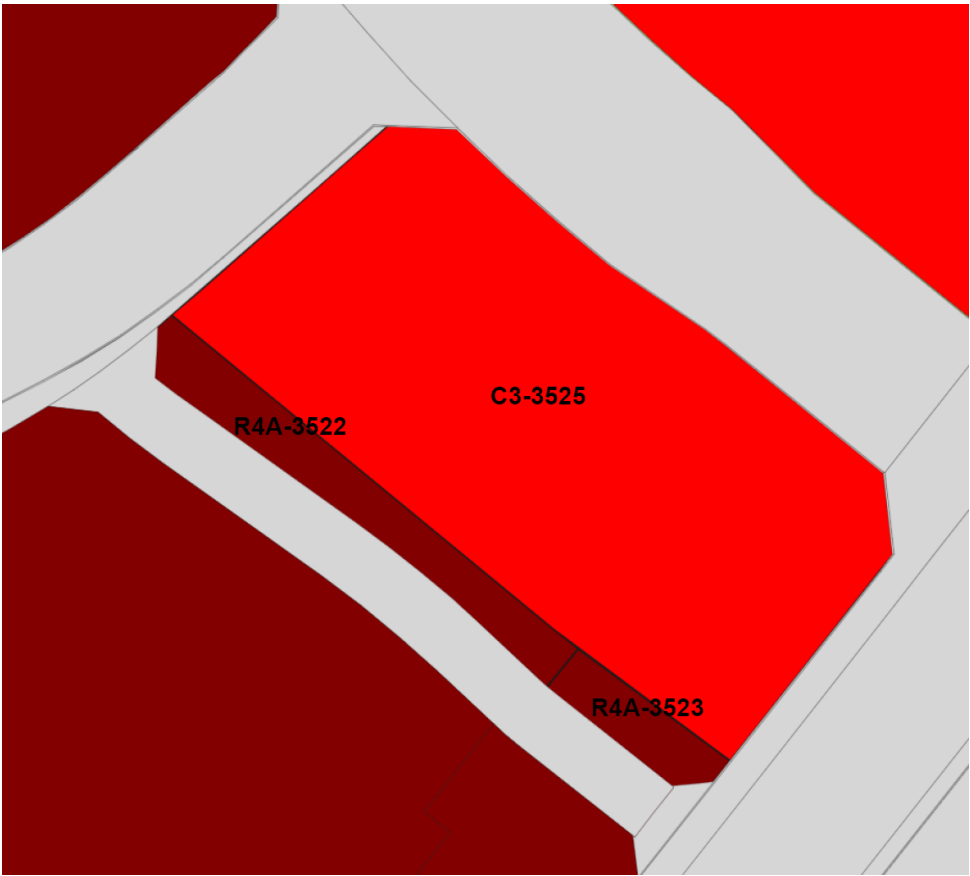
The variances are requested to allow the orderly development of the lands for a mixed-use commercial/office building. The variances are not anticipated to negatively impact the functionality of the site or adjacent properties. Subject to the recommended conditions of approval, the variances are considered minor in nature.

Respectfully Submitted,

*Megan Fernandes*

Megan Fernandes, Assistant Development Planner

Appendix A – Site Zoning





## Notice of Decision

### Committee of Adjustment

APPLICATION NO. B17-021

Ward # 6

#### PLANNING ACT - PROVISIONAL CONSENT

AN APPLICATION HAS BEEN MADE BY BOVAIRD WEST HOLDINGS INC.

The applicant(s) request(s) consent to a conveyance of Part of Block 1, Plan 43M-1927, City of Brampton, Regional Municipality of Peel, together with reciprocal easements for parking, access, above and below ground servicing and any other easements deemed necessary or required. The "severed" land has an area of approximately 8.05 hectares (19.90 acres). The land is located at the north-west corner of Bovaird Drive West and Creditview Road. The land is designated "District Retail" in the Official Plan and "District Retail" in the Mount Pleasant Secondary Plan (Area 51). The proposed retained parcel is zoned "Commercial Three-Section 3525 (C3-3525)". The proposed severed parcel is zoned "Residential Apartment A-Section 3523 (R4A-3523)", "Residential Apartment A-Section 3522 (R4A-3522)" and "Residential Apartment A (Holding-Section 3524 (R4A (H)-3524)". It is proposed that the severed land be used for future residential purposes.

THE REQUEST IS HEREBY APPROVED, THIS DECISION:

IF APPROVED: IS SUBJECT TO THE CONDITIONS AND FOR THE REASONS SET OUT ON PAGE TWO OF THE NOTICE OF DECISION OF THE COMMITTEE OF ADJUSTMENT.

IF REFUSED: IS FOR THE REASONS SET OUT ON PAGE TWO OF THE NOTICE OF DECISION OF THE COMMITTEE OF ADJUSTMENT.

MOVED BY D. DOERFLER SECONDED BY: R. NURSE

*DATED THIS 8th day of MAY, 2018*

Signature of Chair of Meeting

WE THE UNDERSIGNED CONCUR IN THE DECISION AND REASONS OF THE COMMITTEE

Signature of Member of Committee

Signature of Member of Committee

Signature of Member of Committee

Signature of Member of Committee

Signature of Member of Committee

#### CERTIFICATION

I, JEANIE MYERS, SECRETARY-TREASURER OF THE COMMITTEE OF ADJUSTMENT CERTIFY THAT THE FOREGOING IS A CORRECT COPY OF THE DECISION OF THE COMMITTEE WITH RESPECT TO THE ABOVE APPLICATION.

SECRETARY-TREASURER, COMMITTEE OF ADJUSTMENT

Additional information regarding the application for consent will be available to the public for inspection between 8:30 a.m. and 4:30 p.m. Monday to Friday at the Brampton City Hall, Committee of Adjustment Office, 2 Wellington Street West, Brampton, Ontario L6Y 4R2, Telephone No. (905) 874-2117 and Fax No. (905) 874-2119.

You will be entitled to receive notice of any changes to the conditions of the provisional consent if you have either made a written request to be notified of the decision to give or refuse to give provisional consent or make a written request to be notified of changes to the conditions of the provisional consent.

Only individuals, corporations and public bodies may appeal decisions or any condition in respect of applications for consent to the Local Planning Appeal Tribunal. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group.

An appeal form is available on the Environment and Land Tribunal Ontario website at [www.elto.gov.on.ca](http://www.elto.gov.on.ca) or at the office of the Secretary-Treasurer. The notice of appeal accompanied by the fee prescribed under the Local Planning Appeal Tribunal Act shall be filed with the Secretary-Treasurer of the Committee of Adjustment. The prescribed fee is \$300. Cheques are to be made payable to the Minister of Finance. **TURN TO PAGE TWO (2) FOR THE LOCAL PLANNING APPEAL TRIBUNAL APPEAL DATE.**

The land which is the subject of the application is the subject of an application under the *Planning Act* for:

Official Plan Amendment:  
Zoning By-law Amendment:  
Minor Variance:

NO  
YES  
NO

File Number:  
File Number: C04W11.01  
File Number:



**PLANNING ACT – PROVISIONAL CONSENT**

AN APPLICATION HAS BEEN MADE BY **BOVAIRD WEST HOLDINGS INC.**

THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS: (AS AGREED TO BY THE APPLICANT(S)/AGENT(S) AT THE MEETING).

- A. The Secretary-Treasurer shall have been satisfied that the following conditions have been fulfilled within one year of the mailing date noted below and the Secretary-Treasurer's Certificate under the Planning Act shall be given. (See "Decision Information Sheet" for further information).
1. That prior to the issuance of the Certificate of the Secretary-Treasurer, the owner be required to enter into a Consent Agreement for the severed and the retained lands, which Consent Agreement shall be registered on title to the lands subject to the application in priority to all other encumbrances, all to the satisfaction of the Commissioner of Development Services and the City Solicitor. The Consent Agreement shall generally include provisions including but not limited to, the following:
  - a. that reciprocal easements, which may include blanket easements over the severed and retained lands, may be required to be conveyed prior to site plan approval at the discretion of the Commissioner of Planning and Development Services and the Commissioner of Public Works and Engineering for purposes including but not limited to: parking, access, services, maintenance and any other purposes identified by the City, Region of Peel and/or utility agency(s);
  - b. that the owner be responsible for all costs associated with the preparation, deposit and registration of any and all reference plan(s) and easements required for compliance with clause (a) above, including the conveyance of the lands dedicated for the new north-south road.
  - c. that the owner agrees that the City will gratuitously convey the lands dedicated for the new north-south road, generally located along the boundary of the severance line, back to owners if not required by City for the construction of the road. The benefitting owners will be responsible for all costs related to conveyance.
  - d. that the owners agrees to design and construct the north-south road to municipal standards, generally located along the boundary of the severance line, prior to any development on the retained lands and/or full development of the severed lands, or sooner if required by the City, at the owners cost, including entering into any required agreements and posting any required securities.
  - e. that the City agrees to initiate a zoning by-law amendment for any orphaned parcels of land resulting from the conveyances and requirements of the Consent agreement, if so requested by the owners. This amendment would serve to zone any orphaned parcels of land into the same zoning designation as the adjacent abutting parcel.
  - f. that any future access locations onto Creditview Road that may be sought by the owner from the retained and severed lands be located in its ultimate configuration to the satisfaction of the City during the site plan review process; and
  - g. that any other provisions identified by the City, Region of Peel and/or utility agencies related to access, servicing and the new north-south road be included in the Consent Agreement to ensure the implementation of the Committee's decision regarding the subject application, all to the satisfaction of the City and the Region of Peel.
2. That prior to the issuance of the Certificate of the Secretary-Treasurer, the lands for a north-south road having a right-of-way width of 16.5 metres with a centre line generally located along the boundary of the severance line, be dedicated gratuitously to the City. The location and extent of the dedicated lands shall be to the satisfaction of the Commissioner of Planning and Development Services and the Commissioner of Public Works and Engineering. A temporary access easement in favour of the severed and retained lands will be provided by the City over the dedicated lands, subject to the satisfaction of the City. This easement will remain in place until such time that the City requires that the north-south road is to be constructed.
3. Prior to the issuance of the Certificate of the Secretary-Treasurer, the owner shall provide a conceptual access and road alignment plan which displays and confirms a road alignment that generally coincides with the severance line, and which end points generally coincide with the approved location access from Bovaird Drive West to Lagerfeld Drive and aligning with an access for Block 7 on Registered Plan 43M-1927.
4. Prior to the issuance of the Certificate of the Secretary-Treasurer a cost share agreement shall be established between the owners of the severed and retained lands respecting any costs associated with any shared responsibilities for the construction of the new north-south road. These costs may include financial considerations such as, but not limited to: servicing, legal, remediation, land dedications and municipal charges.
5. A Secretary-Treasurer's certificate fee shall be paid, in the amount current at the time of the issuance of the Secretary-Treasurer's Certificate.
6. Approval of the draft reference plan(s), as applicable, shall be obtained at the Committee of Adjustment office, and; the required number of prints of the resultant deposited reference plan(s) shall be received.

7. The owner(s) of Blocks 1-4 of Plan 43M-1927 shall enter into a cost sharing agreement in respect of the development of the severed and retained lands pursuant to the Master Water/Wastewater Capacity Analysis as approved by the Region of Peel in accordance with section 20 of the Rezoning Agreement dated June 14, 2017 and registered against the severed and retained lands as Instrument No. PR3146807. Such costs include but are not limited to those in respect of servicing, remediation, land dedication, all manner of fees, charges and costs.
8. The owner(s) of Blocks 1-4 of Plan 43M-1927 shall file a complete Transportation Study to the Region's satisfaction pursuant to section 21 of the Rezoning Agreement dated June 14, 2017 and registered against the severed and retained lands as Instrument No. PR3146807 or, alternatively, execute and register an amending agreement to the satisfaction of the Region of Peel.
9. The owner shall gratuitously dedicate property along the Bovaird Drive West frontage to the satisfaction of the Region of Peel.
10. The owner shall provide reciprocal access easements to the satisfaction of the Region of Peel.

**REASONS:**

1. This decision reflects that regard has been had to those matters to be regarded under the Planning Act, in as much as the dimensions and shape of the lot are adequate for the uses proposed.
2. Subject to the imposed conditions, the consent to the conveyance will not adversely affect the existing or proposed development.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at the Committee of Adjustment meeting, held under the *Planning Act*, have been, on balance, taken into consideration by the Committee as part of its deliberations and final decision on this matter.

**LAST DATE FOR FILING AN APPEAL TO THE ONTARIO MUNICIPAL BOARD: MAY 28, 2018**

**DATE OF MAILING: MAY 8, 2018**

**Brampton, Ontario**

