



Report Committee of Adjustment

Filing Date: September 13, 2024

Hearing Date: October 15, 2024

File: B-2024-0015 & A-2024-0352

**Owner/
Applicant:** **Rose Garden Investment LP
Urban Solutions Planning & Land Development Consultants Inc.**

Address: **122-130 Main Street North, 6&7 Nelson Street East, 7&11 Church Street East**

Ward: WARD 1

Contact: Simran Sandhu, Planner I

Purpose:

The purpose of the application is to request consent to sever a parcel of land currently having a total area of approximately 0.87 hectares. The proposed severed lot has a frontage of approximately 18.89 metres; a depth of approximately 84.63 metres and an area of approximately 0.36 hectares. It is proposed that 2 lots be established from the existing lot for future mixed-use development of a 22-storey building on the proposed severed lot, along with the creation of access easements and a blanket easement for stormwater management.

Recommendations:

That application **B-2024-0015** is supportable, subject to the following conditions being imposed:

1. 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;
2. That the owner finalize site plan approval under City File SPA-2021-0269, execute a site plan agreement, and post any required financial securities and insurance to the satisfaction of the Director of Development Services;
3. Separate water, sanitary and storm services shall be provided for each lot in accordance with the Ontario Building Code and to the satisfaction of the Chief Building Official prior to the severance being finalized. Should services serving one lot cross the other, the appropriate easements shall be registered prior to the completion of the severance application and issuance

of the Certificate from the COA Secretary Treasurer. A building permit is required for alteration to the existing services;

4. As a condition of severance, the Owner shall provide confirmation of the registration of a mutual access easement between the retained and severed lands. The mutual access easement will be in perpetuity and to the satisfaction of the City Solicitor and the City's Commissioner of Public Works & Engineering. The Owner hereby waives and releases the City from any claim for compensation, injurious affection or other damages, claims, demands, losses, costs, suits or other proceedings arising or which may arise as a result of such arrangements. In this regard, the Owner shall submit the following to the Traffic Planning group for approval and copy the Legal Services Division:
 - a. A draft reference plan.
 - b. A draft reference plan overlaid onto the proposed site plan, showing only the subject site, depicting separate parts where the easement is to be conveyed.
 - c. A memorandum to the Traffic Planning group setting out the parts on the draft reference plan that are to be conveyed and copied to the Legal Services Division.
 - d. Upon approval of the Draft Reference Plan by the City's Traffic Planning group, arrange for the Surveyor to have the Draft Reference Plan deposited at the Land Registry Office of Peel.
 - e. Deposited copies are to be provided to the Traffic Planning group and the Legal Services Division;
5. Through the associated Site plan Application, the applicant shall address the Metrolinx comments noted in their letter dated October 10, 2024;
6. Arrangements satisfactory to the Region of Peel, Public Works shall be made with respect to the location of existing and installation of new services and/or possible required private service easements; and,
7. 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.

That application **A-2024-0352** is supportable in part, subject to the following conditions being imposed:

1. That the extent of the variances be limited to that shown on the sketch attached to the Notice of Decision;
 2. That the owner finalize site plan approval under City File SPA-2021-0269, execute a site plan agreement, and post any required financial securities and insurance to the satisfaction of the Director of Development Services; and,
 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:

Consent application (B-2024-0015) and concurrent Minor Variance application (A-2024-0352) have been submitted to facilitate the severance of the subject property. The proposed severed lot has a frontage of approximately 18.89 metres; a depth of approximately 84.63 metres and an area of approximately 0.42 hectares. The scope of the submitted applications is to facilitate the creation of one (1) additional lot (severed lot), from the existing lot (retained lot) for a future mixed-use development. In relation to this application, the surrounding land uses include existing commercial and residential uses within the Downtown Brampton Area.

- **Official Plan:** The subject property is designated as 'Central Area' in the Official Plan;
- **Brampton Plan:** The subject property is designated as 'Community Areas' in Schedule 1A, 'Mixed-Use' in Schedule 2 and located within the Brampton MTSA and designated as 'Mixed-Use High Rise' in the Regionally adopted Brampton Plan;
- **Secondary Plan:** The subject property is designated as 'Central Area Mixed Use' within the Downtown Brampton Secondary Plan (Area 7); and,
- **Zoning By-law:** The subject property is split zoned 'Downtown Commercial – Special Section 2967 and Holding Provision (DC(H) - 2967)' and 'Residential Apartment – Special Section 2968 and Holding Provision (R4A(H) – 2968)' according to By-law 270-2004, as amended.

Consent Application:

The subject property is located on the northeast corner of the intersection of Main Street North and Nelson Street and is currently vacant with the exception of a couple of heritage buildings which are to be incorporated into the future development of the site. The subject property is situated within the Downtown Brampton area and is proposed to be split into two parcels to facilitate a phased development proposed through the ongoing Site Plan Application (SPA-2021-0269).

The purpose of the Consent Application is to sever the subject property into two separate parcels which align with the phased development for the site consisting of one 35-storey mixed-use building, one 22-storey mixed-use building and a 3-storey stacked townhouse. The applicant is also requesting access and servicing easements for the two lots. A Minor Variance application has also been submitted to ensure that all the existing zoning deficiencies as a result of the severance are captured and brought into conformity with the Zoning By-law.

Staff has undertaken a thorough review of this proposal, relative to the provisions prescribed within Section 51(24) of the Planning Act (as summarized on Schedule "A" attached to this report), and advise that the proposed consent application is considered to represent proper and orderly planning and can be supported from land use perspective.

Minor Variance Application:

Background:

Following a Legal and Policy review of the application, staff determined that the parking variance (# 8) is no longer necessary due to policy changes introduced by Bill 185. The subject property is located within the Brampton Major Transit Station Area (MTSA). According to Bill 185, the Planning Act now prohibits any Official Plan from requiring building owners to provide and maintain parking facilities, except for bicycles, within an MTSA. If an Official Plan includes such a policy, it is considered amended to align with the Planning Act. This policy became effective on June 6, 2024, the day the bill received royal assent.

As part of the Comprehensive Zoning By-law review, staff will be making all the necessary amendments to the Zoning by-law to conform with the MTSA policy direction in both Brampton Plan and the current Secondary Plan Amendments that will likely be adopted by Council in Q1 2025. These Secondary Plan amendments will include language that there are to be no parking requirements for uses within an MTSA, as per Bill 185.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a maximum front yard setback (Main Street North) of 8.5 metres, whereas the by-law permits a maximum front yard setback of 3.0 metres;
 2. To permit a minimum front yard setback of 8.5 metres to a tower and 0.0 metre setback to a podium, whereas the by-law requires a minimum front yard setback of 10.0 metres to a tower and 1.7 metres to a podium;
 3. To permit an interior side yard setback of 0.0 metres to a podium abutting a commercial zone, whereas the by-law permits a minimum interior side yard setback of 0.5 metres to a podium abutting a commercial zone;
 4. To permit an exterior side yard setback of 9.5 meters to a podium, whereas the by-law requires a minimum exterior side yard setback of 15.0 meters;
 5. To permit a minimum rear yard setback of 1.2 metres to a zone boundary, whereas the by-law requires a minimum rear yard setback of 10.0 metres to the zone boundary;
 6. To permit a maximum building height of 35 storeys, whereas a maximum building height of 29-storeys is currently permitted;
 7. To permit a minimum non-residential gross floor area of 405 square metres, whereas a minimum non-residential gross floor area of 2000 square metres is currently permitted; and,
 8. To permit a visitor parking rate of 0.05 spaces per unit, whereas the by-law requires a minimum visitor parking rate of 0.20 spaces per unit.
1. Maintains the General Intent and Purpose of the Official Plan

The subject property is designated as 'Community Areas' in Schedule 1A, 'Mixed-Use' in Schedule 2 and located within the Brampton MTSA and designated as 'Mixed-Use High Rise' in the Regionally adopted Brampton Plan. On May 16th, 2024, the Region of Peel formally issued a notice of approval with modifications for the City of Brampton's new Official Plan, known as the 'Brampton Plan.' The Plan was scheduled to take effect on June 6th, 2024, except for any sections that may be subject to appeal. Schedules 1A and 2 have been appealed on a city-wide basis and therefore the 2006 Official Plan designations are in effect until the appeal is resolved.

In the Brampton Plan, the 'Mixed Use' designation is intended to support increased population, employment and household growth through a broad range of uses like a mix of residential, including affordable and rental housing options, commercial, institutional, office, restaurant and service uses. The subject site is located within the Downtown Brampton Urban Centre and is within a Primary Major Transit Station Area (MTSA) according to Schedule A1, City Structure of the Brampton Plan (2024). These are strategic growth areas within Brampton's planning hierarchy, and are the locations that should be planned for the highest densities and tallest buildings. Uptown Brampton is planned to achieve a minimum density target of 200 people and jobs per hectare, and should include a broad range of uses to support the creation of a 15-minute neighbourhood. According to Schedule 2 of this plan the site is within the Mixed-Use designation that should be developed with uses and densities that support transit, enhance the pedestrian experience, and provide connections to community facilities and parks (2.2.6.2).

The subject property is designed as 'Central Area' in the Official Plan (2006) and the vision for the Central Area and Urban Growth Centre is to continue reinforcing its role as a focal area for investment in institutional and region-wide public services, as well as commercial, recreation, cultural and entertainment uses. A vibrant mixed-use Urban Growth Centre will include planning to achieve a minimum gross density of 200 people and jobs combined per hectare, in a healthy balance that allows residents to live and work in close proximity.

The property is further designated as 'Central Area Mixed Use' within the Downtown Brampton Secondary Plan (Area 7). This area is intended to accommodate mixed-use developments incorporating any combination of commercial, retail, office, residential, hotel, open space, recreational, institutional, a full range of entertainment and cultural uses including, but not limited to, movie theatres, art galleries, live theatre and museums which are managed as a unit. Mixed-Use development shall mean a free-standing use either/or a development which any combination of office, retail, commercial, institutional, or residential uses are developed and managed as a unit.

The property is located within The Brampton MTSA and is designated as High-Rise Mixed-use. This designation would support and permit increased building heights and densities on the site. The City of Brampton's MTSA's are strategically located along Brampton's rapid transit corridors and the Kitchener GO rail line, and are areas where significant intensification is to be located. MTSA's will transition over time into vibrant high density walkable places that include open spaces, services and amenities, employment uses, an attractive public realm, and are located within walking distance or easy access to transit facilities.

The application requests several variances related to the development standards for the proposed mixed-use buildings. These variances include increased heights for the tower, reduction in setbacks and gross floor space area for the non-residential component of the development.

The requested variances are deemed to maintain the general intent and purpose of the Official Plan.

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

Variance 1 seeks to permit a maximum front yard setback (Main Street North) of 8.5 metres, whereas the by-law permits a maximum front yard setback of 3.0 metres. The intent of the by-law in requiring a maximum front yard setback is to ensure a consistent streetscape and prevent inefficient use of land by limiting how far buildings can be set back from the street. This supports a cohesive neighbourhood character and reduces the creation of large, underutilized front yards or parking areas. The proposed variance, which permits a maximum front yard setback of 8.5 metres still upholds the by-law's intent of maintaining a consistent streetscape and avoiding inefficient land use. Although the setback is larger, the space will be actively utilized for bicycle parking, which serves as an amenity that promotes sustainable transportation and enhances street activity. By integrating bicycle parking into the front yard, the variance prevents the area from becoming an underutilized space and instead contributes to the functionality of the site. This maintains an active frontage, supports a pedestrian-oriented environment, and aligns with the overall objectives of the by-law by providing a meaningful use for the additional setback area. Tower A is proposed to be situated on top of the existing heritage building, therefore further setting it back from the property line along Main Street North. Subject to the recommended condition of approval, variance 1 maintains the general intent and purpose of the Zoning By-law.

Variance 2 seeks to permit a minimum front yard setback of 8.5 metres to a tower and 0.0 metre setback to a podium, whereas the by-law requires a minimum front yard setback of 10.0 metres to a tower and 1.7 metres to a podium. The intent of the by-law in requiring a minimum front yard setback to the tower and podium is to ensure that the building mass is adequately set back from the street to provide sufficient access to light, air, and privacy for both the public realm and adjacent properties. Additionally, these setbacks help reduce the visual impact of taller structures, create a pedestrian-friendly environment at the street level, and support a human-scaled streetscape by placing emphasis on the podium, which contributes to an inviting and engaging street frontage. While the tower setback is reduced, the separation still ensures adequate access to light, air, and privacy for surrounding properties. The 0.0 metre podium setback enhances the pedestrian experience by creating a more active and engaging street frontage, encouraging pedestrian interaction, and promoting a sense of enclosure that supports a comfortable streetscape. Additionally, the reduced setback helps minimize the visual impact of the tower, which lowers the perceived scale of the building and preserves a human-scale environment at street level. This configuration maintains a balanced urban form while accommodating the functional and design needs of the development. Subject to the recommended condition of approval, variance 2 maintains the general intent and purpose of the Zoning By-law.

Variance 3 seeks to permit an interior side yard setback of 0.0 metres to a podium abutting a commercial zone, whereas the by-law permits a minimum interior side yard setback of 0.5 metres to a podium abutting a commercial zone. The intent of the by-law in requiring a minimum interior side yard setback to the commercial zone is the help define property boundaries and prevent potential conflicts

between adjacent properties. The minimum setback provides a buffer that contributes to the functionality of the space while maintaining flexibility for the design and layout of the building. The proposed variance will ensure appropriate separation and compatibility with the adjacent commercial property while maximizing the buildable area without compromising provisions of safety and functionality. Subject to the recommended condition of approval, variance 3 maintains the general intent and purpose of the Zoning By-law.

Variance 4 seeks to permit an exterior side yard setback of 9.5 meters to a podium, whereas the by-law requires a minimum exterior side yard setback of 15.0 meters. The intent of the by-law is to require a minimum exterior side yard setback is to ensure sufficient separation between structures and compatibility with the surrounding area. The reduced exterior side yard setback is identified at the corner of Main Street North and Nelson Street. This reduced setback will enhance the functional use of the corner space by allowing for landscaping and pedestrian pathways that will help create an engaging environment, ultimately contributing to the overall character and functionality of the area. Subject to the recommended condition of approval, variance 4 maintains the general intent and purpose of the Zoning By-law.

Variance 5 seeks to permit a minimum rear yard setback of 1.2 metres to a zone boundary, whereas the by-law requires a minimum rear yard setback of 10.0 metres to the zone boundary. The intent of the by-law in requiring a minimum rear yard setback to a zone boundary is to ensure adequate separation between the building and adjacent properties. This setback also serves to provide a buffer between different land uses and enhance compatibility between varying types of development. The abutting zone to the rear of the site is designated as residential apartment which is similar in nature to the development on the subject property and therefore can foster compatibility and enhance the overall character of the area. Subject to the recommended condition of approval, variance 5 maintains the general intent and purpose of the Zoning By-law.

Variance 6 seeks to permit a maximum building height of 35-storeys, whereas a maximum building height of 29-storeys is currently permitted. The intent of the by-law in regulating building height is to ensure that developments do not result in negative massing, shadowing or excessive wind impacts on adjacent properties. A Wind Study addendum was prepared and submitted through the Site Plan Application to reflect the revised design and increased height. The addendum concludes that there would be no significant changes to the wind conditions as a result of the changes in massing. Similarly, a revised sun and shadow study was prepared and submitted through the associated Site Plan Application. The study concludes that the revised massing of the building and height will not result in undue shadowing beyond the limits of the subject site. The site is within a Primary Major Transit Station Area (MTSA), designated for higher density and building heights to support transit-oriented development. The proposed heights are consistent with other approved developments in the area, including buildings of up to 48-storeys at 199, 203, 205, 207, 209, 2019 and 221 Main Street North. This helps achieve higher densities along an urban corridor and within a Primary MTSA. Subject to the recommended condition of approval, variance 6 maintains the general intent and purpose of the Zoning By-law.

Variance 7 seeks to permit a minimum non-residential gross floor area of 405 square metres, whereas a minimum non-residential gross floor area of 2000 square metres is currently permitted. The intent of the by-law in regulating the minimum permitted gross floor area for the non-residential use is to ensure

that adequate space is provided for the non-residential use and to not negatively impact the overall balance of the mixed-use development. The mixed-use development is proposing to reconstruct and incorporate the existing heritage building on the site into the design of tower A. The heritage building will be repurposed into a retail space for the development and as such, the existing space can only accommodate 405 square metres of non-residential space. The reduced non-residential space will not impact the overall balance of the mixed-use development if thoughtfully designed to integrate with the residential component of the development and maintain the overall aesthetic and functionality of the area. Subject to the recommended condition of approval, variance 7 maintains the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

The proposed development builds on previous plans, now revised to allow for a severance of the property and creating zoning compliance issues related to the proposed mixed-use development. Policy directives encourage high-density development near infrastructure and this development enables a more efficient use of land near the Brampton MTSA by directing intensification towards growth areas.

Variations 1-5 are requested to address aspects of the development that relate to the built form and function of the tower and podium. The variations address functional aspects of the tower and podium setbacks which are not intended to create any negative impacts to the overall streetscape or adjacent properties. Variance 1-5 are considered to be desirable for the appropriate development of the land.

Variance 6 requests an increase in the building height from 29-storeys to 35-storeys. This increase aligns with the site's designation as a Primary Major Transit Station Area (MTSA), which encourages higher densities and building heights to support transit-oriented development. The proposed heights are consistent with other approved developments nearby, including buildings of up to 48-storeys, enhancing the urban corridor's density and proximity to transit. Additionally, the variance supports the region's growing demand for higher-density developments near transit hubs, aligning with long-term zoning plans and enhancing the area's urban character. The variance is considered to be desirable for the appropriate development of the land.

Variance 7 requests to decrease the non-residential gross floor area which can allow for greater flexibility for the non-residential use of the lands. This scale of non-residential space promotes a more human-oriented environment, encourages pedestrian activity, and contributes to an active streetscape. Additionally, it prevents the development from being dominated by larger non-residential units that may be incompatible with the surrounding residential character. The non-residential space being used for the proposed development will be located in the existing heritage building. The heritage building is to be reconstructed to fit into the development and the repurpose of the existing building is considered to be appropriate for the development. The variance is considered to be desirable for the appropriate development of the land.

4. Minor in Nature

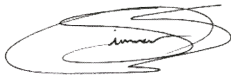
Variations 1-5 address the built form and function of the mixed-use development for the tower and podium. These variations focus on modifying the tower and podium setbacks. These changes that do not significantly alter the overall scale, density, or character of the development. These setback

modifications are tailored to optimize the building's relationship with the surrounding streetscape, improve pedestrian experience, and ensure the development integrates harmoniously with neighboring properties. The proposed reductions in setbacks are minimal in scale and do not create adverse impacts related to privacy, light access, or compatibility with adjacent uses. Furthermore, these changes maintain the overall intent of the zoning by-law by supporting a well-balanced built form, preserving the streetscape continuity, and ensuring functionality and safety. As such, the variances have a negligible impact on the surrounding area and can be considered minor adjustments to enhance the development's design and usability. The variances are considered to be minor in nature.

Variance 6 requests a height increase for Tower A, while above the by-law's limit, is minor in nature as the site is located in a Primary Major Transit Station Area (MTSA), which supports higher densities and taller buildings. Additionally, the proposed heights align with other nearby developments. The increased height is consistent with the area's planned growth and does not detract from the intent of the by-law.

Variance 7 requests to decrease the non-residential gross floor area within the proposed mixed-use area can be considered minor in nature because it does not significantly affect the overall functionality, character, or use of the mixed-use development. The reduction in non-residential space still allows for a range of commercial uses that can serve the needs of residents and contribute to an active streetscape. Therefore, the change is considered minor as it has minimal impact on the overall development and surrounding area. The increased height is consistent with the area's planned growth and does not detract from the intent of the by-law.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Simran Sandhu', enclosed within a circular scribble.

Simran Sandhu, Planner

SCHEDULE "A"

**CRITERIA TO BE CONSIDERED UNDER SECTION 53(12) & 51(24) OF THE
PLANNING ACT**

CRITERIA TO BE CONSIDERED	ANALYSIS
a) <i>The effect of development of the proposed subdivision on matters of provincial interest:</i>	The proposed severance, access and servicing easements have no effect on matters of provincial interest.
b) <i>Whether the proposal is premature or in the public interest;</i>	The proposed severance, access and servicing easements are neither premature nor contrary to any matters of public interest.
c) <i>Whether the plan conforms to the official plan and adjacent plans of subdivision, if any;</i>	The proposed severance, access and servicing easements do not present any concern with regard to the Official Plan or adjacent plans of subdivision.
d) <i>The suitability of the land for the purposes for which it is to be subdivided;</i>	The proposed severance, access and servicing easements are suitable for the purposes for which it is to be subdivided.
e) <i>The number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;</i>	The proposed severance, access and servicing easements do not present any concern with regard to the adequacy of the roadwork network.
f) <i>The dimensions and shapes of the proposed lots;</i>	The proposed severance, access and servicing easements are appropriate in size and shape for their purpose.
g) <i>The restrictions or proposed restrictions, if any, on the land proposed to be subdivided; or the buildings or structures proposed to be erected on it and the restrictions, if any, on adjoining land;</i>	The proposed severance, access and servicing easements present no concerns with regard to restrictions on the lands included in the lands to be subdivided.
h) <i>The conservation of natural resources and flood control;</i>	The proposed severance, access and servicing easements present no concerns with regard to flood control and the conservation of natural resources.

i)	<i>The adequacy of utilities and municipal services;</i>	There are no concerns with regard to the adequacy of utilities and municipal services.
j)	<i>The adequacy of school sites;</i>	The proposed severance, access and servicing easements present no concerns with regard to the adequacy of school sites.
k)	<i>The area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;</i>	There are no concerns related to conveyances for public purposes.
l)	<i>The extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy</i>	The proposed severance, access and servicing easements have no impact on matters of energy conservation.
m)	<i>The interrelationship between the design of the proposal and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41(2) of this Act.</i>	There are no concerns related to the design of the proposal and matters of Site Plan Control under the Planning Act.