

Filing Date: August 18, 2021

Hearing Date: October 4, 2022

File: B-2021-0018 & B-2021-0019

**Owner/
Applicant:** HARJINDER SINGH AND VIRAN SINGH

Address: 10417 AIRPORT ROAD, PART OF LOTS 12 AND 13, CONCESSION 7 N.D.

Ward: WARD 10

Contact: François Hémon-Morneau, Planner III

Proposal:

B-2021-0018 (Request to Change Conditions of Provisional Consent)

Condition # 3 – A solicitor’s undertaking shall be received indicating that the “severed” land and the abutting land, being Block 174, Plan 43M-1449, shall be “merged” for Planning Act purposes at the time of the registration of the Transfer to which the Secretary-Treasurer’s Certificate is affixed.

- The purpose of the application is to request consent to sever a parcel of land currently having a total area of approximately 2.06 hectares (5.09 acres). The severed land (Parcel B) has a width of approximately 9.24 metres (30.31 feet), a depth of approximately 18.7 metres (61.35 feet), and an area of approximately 356 square metres (0.36 hectares). It is proposed that the severed land be added to Block 174, Plan 43M-1449 as a lot addition to facilitate completion of a residential lot on the south side of Sparta Drive.

B-2021-0019 (Request to Change Conditions of Provisional Consent)

Condition # 3 – A solicitor’s undertaking shall be received indicating that the “severed” land and the abutting land, being Block 177, Plan 43M-1449, shall be “merged” for Planning Act purposes at the time of the registration of the Transfer to which the Secretary-Treasurer’s Certificate is affixed.

- The purpose of the application is to request consent to sever a parcel of land currently having a total area of approximately 2.06 hectares (5.09 acres). The severed land (Parcel C) has a width of approximately 9.24 metres (30.31 feet), a depth of approximately 6.6 metres (21.65 feet), and an area of approximately 90 square metres (0.009 hectares). It is proposed that the severed land be added to Block 177, Plan 43M-1449 as a lot addition to facilitate completion of a residential lot on the south side of Sparta Drive.

Recommendations:

That application **B-2021-0018** is supportable, subject to the following conditions being imposed:

1. The Secretary-Treasurer shall have been satisfied that the following conditions have been fulfilled within two years of the mailing date noted below and the Secretary-Treasurer's Certificate under the Planning Act shall be given:
 - a. 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; and,
 - b. 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.
2. Subsection 50(3) and/or(5) of the Planning Act R.S.O. 1990 as amended, shall apply to any subsequent conveyance or transaction involving the parcel of land that is the subject of this consent;
3. The owner register a s.118 restriction on the subject lands preventing the transfer or charge of the whole or any part of the lands (severed or retained) without the written consent of the Corporation of the City of Brampton and agrees that the City will only consent to the conveyance of the severed parcel that is the subject of this application to the registered owner of Block 174 on 43M-1449 and that the City will only consent to the release of the s.118 on the retained lands upon: the severed lands and Block 174 (the "Resultant Lot") being in the same ownership and the owner of the Resultant Lot registering a s.118 on the Resultant Lot restricting the transfer or charge of anything less than the Resultant Lot without the City's consent;
4. The solicitor for the owner of Block 174 will provide an undertaking that immediately upon their client being the owner of the severed lands, they will register a s.118 restriction on the Resultant Lot restricting the transfer or charge of anything less than the Resultant Lot without the City's consent.
5. An undertaking shall be received from a solicitor confirming that the legal description of the "resultant" lot and the legal description in any mortgage(s) encumbering the "resultant" lot will be identical within four (4) weeks of the date of the Secretary-Treasurer's Certificate under the Planning Act; or alternatively, that no part of the "resultant" lot is encumbered by any mortgage(s). (The "resultant" lot is the "severed" land and the land to which the "severed" land is to be merged.);
6. The applicant shall gratuitously convey to the City of Brampton, free of all encumbrances and with good and marketable title (with partial discharges of any existing charges to be registered in the same docket as and immediately after the conveyance in order to comply with the Planning Act), portions of the subject property that are determined to be within the limits of the natural heritage system to the satisfaction of the Director of Development Services, in consultation with the Toronto and Region Conservation Authority. In this regard the applicant shall prepare a reference plan depicting the limits of the natural heritage system to be conveyed and, after the Reference Plan is approved by the Director of Development Services, shall be deposited with the Land Registry Office;
7. That the owner shall submit a tree compensation plan for the removed trees located on the residential lots.

That application **B-2021-0019** is supportable, subject to the following conditions being imposed:

1. The Secretary-Treasurer shall have been satisfied that the following conditions have been fulfilled within two years of the mailing date noted below and the Secretary-Treasurer's Certificate under the Planning Act shall be given:
 - a. 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; and,
 - b. 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.
2. Subsection 50(3) and/or(5) of the Planning Act R.S.O. 1990 as amended, shall apply to any subsequent conveyance or transaction involving the parcel of land that is the subject of this consent.
3. The owner register a s.118 restriction on the subject lands preventing the transfer or charge of the whole or any part of the lands (severed or retained) without the written consent of the Corporation of the City of Brampton and agrees that the City will only consent to the conveyance of the severed parcel that is the subject of this application to the registered owner of Block 177 on 43M-1449 and that the City will only consent to the release of the s.118 on the retained lands upon: the severed lands and Block 177 (the "Resultant Lot") being in the same ownership and the owner of the Resultant Lot registering a s.118 on the Resultant Lot restricting the transfer or charge of anything less than the Resultant Lot without the City's consent.
4. The solicitor for the owner of Block 177 will provide an undertaking that immediately upon their client being the owner of the severed lands, they will register a s.118 restriction on the Resultant Lot restricting the transfer or charge of anything less than the Resultant Lot without the City's consent.
5. An undertaking shall be received from a solicitor confirming that the legal description of the "resultant" lot and the legal description in any mortgage(s) encumbering the "resultant" lot will be identical within four (4) weeks of the date of the Secretary-Treasurer's Certificate under the Planning Act; or alternatively, that no part of the "resultant" lot is encumbered by any mortgage(s). (The "resultant" lot is the "severed" land and the land to which the "severed" land is to be merged.)
6. The applicant shall gratuitously convey to the City of Brampton, free of all encumbrances and with good and marketable title (with partial discharges of any existing charges to be registered in the same docket as and immediately after the conveyance in order to comply with the Planning Act), portions of the subject property that are determined to be within the limits of the natural heritage system to the satisfaction of the Director of Development Services, in consultation with the Toronto and Region Conservation Authority. In this regard the applicant shall prepare a reference plan depicting the limits of the natural heritage system to be conveyed and, after the Reference Plan is approved by the Director of Development Services, shall be deposited with the Land Registry Office;
7. The applicant submits \$1,470 (Consent/Severance/Land Division– Minor) review fee to the TRCA as requested in their letter dated September 7, 2021;
8. That the owner shall submit a tree compensation plan for the removed trees located on the residential lots.

Background:

In September 2021, consent was granted by the Committee of Adjustment to sever two parcels of land with a total area of approximately 443 square metres from 10417 Airport Road. The proposed applications have been submitted in support of two severances to facilitate the creation of two parcels that will be conveyed to Mattamy (Castlemore) Limited in order to complete the two lots on the south side of Sparta Drive. The applicant has submitted an application to amend the Zoning By-law (OZS-2022-0006) to permit 2 single detached dwellings on Sparta Drive.

The applicant has submitted applications to request changes to the original conditions of the consent due to challenges associated with fulfilling these conditions as they required the PINs for the subject lands to be consolidated which is against the LRO's rules in this particular circumstance. The applicant could not provide a solicitor's undertaking indicating that the severed lands be merged as required by the Planning Act. Since one of the two parcels of land in each application (B-2021-0018 & B-2021-0019) were meant to be joined together to form a new property, which is currently a whole block on a plan of subdivision (Block 174 and Block 177 on 43M-1449), that block will always be capable of being transferred or charged independently of the land that is being severed and added to it. Therefore, they cannot be considered "merged" for Planning Act purposes. Staff have discussed this matter with the applicant and City legal staff in October and November 2021 and advised that applications for Changes to the Conditions of Provisional Consent would be required to resolve the matter. Planning staff (in consultation with City legal staff) have prepared a set of conditions with language to replace condition #3 in each of the decisions which require the registration of a S.118 restriction be registered on title. This would ensure that the lands are not dealt with separately in the future without the City's consent.

Through the review of the application to amend the Zoning By-law (OZS-2022-0006), it was identified that the City is to obtain the natural heritage lands which constitute a portion of the subject land. The applications for Consent and Changes to the Conditions of Provisional Consent are a mechanism for the conveyance of the environmentally sensitive lands to the City. A condition of approval is recommended to that effect. City staff have discussed this requirement with the owner and applicant.

- **Official Plan:** The subject property is designated 'Residential & Open Space' in the Official Plan;
- **Secondary Plan:** The subject property is designated 'Low Density 1' & 'Valleyland' in the Vales of Castlemore Secondary Plan (Area 42); and
- **Zoning By-law:** The subject property is zoned "Agricultural (A), Floodplain (F), Open Space (OS), Residential Single Detached A (R1A-1711)" according to By-Law 270-2004, as amended.

Current Situation:

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 a land use perspective.

Respectfully Submitted,

François Hémon-Morneau

François Hémon-Morneau, Planner III

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 consents to sever have no effect on matters of provincial interest.
b) <i>Whether the proposal is premature or in the public interest;</i>	The proposed consents to sever 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 consents to sever do not present any concern with regard to the Official Plan or adjacent plans of subdivision. The proposal conforms to the residential designations of the Official Plan and adjacent Plan of Subdivision.
d) <i>The suitability of the land for the purposes for which it is to be subdivided;</i>	The consents to sever 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 consents to sever 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 shape and dimension of the proposed and retained lots are appropriate for the intended uses.
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>	No concerns are noted with regard to restrictions on the lands included in the lease area.

h) <i>The conservation of natural resources and flood control;</i>	The proposed consents to sever 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 consents to sever 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>	A condition of approval is recommended that the applicant shall gratuitously convey to the City of Brampton, free of all encumbrances and with good and marketable title, portions of the subject property that are determined to be within the limits of the natural heritage system to the satisfaction of the Director of Development Services, in consultation with the Toronto and Region Conservation Authority.
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 consents to sever 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>	The proposed consents to sever have no impact on matters of Site Plan Control under the Planning Act.