

Filing Date: October 19, 2022

Hearing Date: January 24, 2023

File: B-2022-0019

**Owner/
Applicant:** BOVIRD WEST HOLDINGS INC.

Address: Lagerfeld Drive

Ward: WARD 6

Contact: Simran Sandhu, Assistant Development Planner

Recommendations:

That application B-2022-0019 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. Prior to the issuance of the consent certificate the Owner agrees to make arrangements to the satisfaction of the Commissioner of Public Works and Engineering to register all the required private servicing easement over the severed lands in favour of the retained lands;
 3. The owner agrees to provide blanket accesses easement between retained land (Parcel A) and severed land (Parcel B). The blanket access easement will be in perpetuity and to the satisfaction of the City Solicitor and the City's Commissioner, Public Works & Engineering;
 4. The owner agrees that accesses to Creditview Road and Lagerfeld Dr. from the retained portion will be restricted to right-in-right-out movements only;
 5. The Owner shall provide confirmation to Metrolinx that the warning clause as provided in their correspondence (See Appendix A) has been inserted into all Development Agreements, Offers of Purchase and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor;
 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.
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Proposal:

The purpose of the application is to request consent to sever a parcel of land currently having a total area of approximately 3.25 hectares (8.03 acres), together with reciprocal easements for access and

servicing. The proposed severed lot has a frontage of approximately 108.57 metres (356.20 feet), a depth of approximately 138.28 metres (453.67 feet) and an area of approximately 1.73 hectares (4.27 acres). The effect of the application is to establish two separate lots from the existing lot to facilitate future development of the newly created (severed) lot to the east for residential/mixed use and the retained lot to the west for retail and commercial uses.

Background:

- **Official Plan:** The subject property is designated 'Residential' in the Official Plan;
- **Secondary Plan:** The subject property is designated 'Mixed Use Node' in the Fletchers Meadow Secondary Plan (Area 44a); and
- **Zoning By-law:** The subject property is zoned 'Commercial Three (C3 - 5326)' according to By-Law 270-2004, as amended.

Current Situation:

The owner is seeking approval to sever the parcel of land to create two individual lots from the existing lot. The applicant is also requesting to establish shared access and servicing easements. The proposed severed and retained lands maintain all Zoning By-law requirements for lot size and dimensions. The proposal seeks to develop the retained lands (Parcel A) for retail and commercial uses and develop the severed lands (Parcel B) for high-rise residential use.

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,



Simran Sandhu, Assistant Development 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 sanitary 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 sanitary 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 sanitary 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 severance, access and sanitary 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 sanitary 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 shape and dimension of the proposed lot is appropriate and maintains all minimum Zoning By-law requirements.
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 lands to be subdivided.
h) <i>The conservation of natural resources and flood control;</i>	The proposed severance, access and sanitary 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 access and sanitary 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 sanitary 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.



Report **Committee of Adjustment**

APPENDIX A**Myers, Jeanie**

From: Farah Faroque <Farah.Faroque@metrolinx.com>
Sent: 2022/11/10 4:19 PM
To: City Clerks Office; Myers, Jeanie
Subject: [EXTERNAL]B-202-0019 - Bovaird West Holdings Inc. - Lagerfeld Dr - MV comments
Attachments: Metrolinx Environmental Easement January 2022.pdf

Caution: This email originated from outside the organization. Do not click links or open attachments that you do not trust or are not expecting.

Good afternoon,

Metrolinx is in receipt of the consent application for Lagerfeld Dr (Northeast of Bovaird Dr W and Creditview Rd) to facilitate the severance of the land into two lots for the development of mixed use residential uses on the subject property being severed and further to facilitate the development of retail/commercial uses on the subject property being retained. Metrolinx's comments on the subject application are noted below:

- The subject property is located within 300 meters, adjacent to Canadian National (CN) Rail's Halton Subdivision which carries Metrolinx's Kitchener GO Train service.
- As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The applicant may contact Derek.Brunelle@Metrolinx.com with questions and to initiate the registration process. Registration of the easement will be required prior to clearance of site plan approval. (It should be noted that the registration process can take up to 6 weeks).
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor
 - **Warning:** Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the rail facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand their operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). Metrolinx will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid right-of-way.
- It is kindly requested that Metrolinx is circulated on future applications of the subject lands for review and commenting purposes as Metrolinx may have further requirements as the project progresses.

Best,
Farah Faroque
Intern, Third Party Projects Review
10 Bay Street | Toronto | Ontario | M5J 2N8
T: 437.900.2291



Form of Easement

WHEREAS the Transferor is the owner of those lands legally described in the Properties section of the Transfer Easement to which this Schedule is attached (the "Easement Lands");

IN CONSIDERATION OF the sum of TWO DOLLARS (\$2.00) and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Transferor, the Transferor transfers to the Transferee, and its successors and assigns, a permanent and perpetual non-exclusive easement or right and interest in the nature of a permanent and perpetual non-exclusive easement over, under, along and upon the whole of the Easement Lands and every part thereof for the purposes of discharging, emitting, releasing or venting thereon or otherwise affecting the Easement Lands at any time during the day or night with noise, vibration and other sounds and emissions of every nature and kind whatsoever, including fumes, odours, dust, smoke, gaseous and particulate matter, electromagnetic interference and stray current but excluding spills, arising from or out of, or in connection with, any and all present and future railway or other transit facilities and operations upon the lands of the Transferee and including, without limitation, all such facilities and operations presently existing and all future renovations, additions, expansions and other changes to such facilities and all future expansions, extensions, increases, enlargement and other changes to such operations (herein collectively called the "Operational Emissions").

THIS Easement and all rights and obligations arising from same shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective officers, directors, shareholders, agents, employees, servants, tenants, sub-tenants, customers, licensees and other operators, occupants and invitees and each of its or their respective heirs, executors, legal personal representatives, successors and assigns. The covenants and obligations of each party hereto, if more than one person, shall be joint and several.

Easement in gross.