

Filing Date: July 4, 2023
Hearing Date: October 3, 2023

File: B-2023-0020

**Owner/
Applicant:** **CABBAGE PATCH DEVELOPMENTS INC./ ZELINKA PRIAMO LTD.**

Address: **35 Worthington Avenue**

Ward: WARD 6

Contact: Rajvi Patel, Assistant Development Planner

Proposal:

The purpose of the application is to request consent to sever a parcel of land currently having a total area of approximately 6.35 hectares (15.39 acres); together with easements for access (ingress/egress/internal driveway connections), servicing (water/storm/sanitary/gas) and overland flow for both the proposed severed and retained lands. The proposed severed parcel has a frontage of approximately 52.5 metres (172.24 feet), a depth of approximately 304.6 metres (1000 feet) and an area of approximately 5.24 hectares (12.94 acres). It is proposed that the severed parcel be merged with the abutting lands to the west (31 Worthington Avenue).

Recommendations:

That application B-2022-0020 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. 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;
3. The owner of the Retained Lands ("Site B and Site B.1, also known as PINs 14254-8889, 14254-0901 and part of 14254-8887") shall register a section 118 restriction under the Land Titles Act on the Retained Lands restricting the transfer or charge of anything less than the entirety of the Retained Lands without the written consent of the Corporation of the City of Brampton, and/or the council for the Corporation of the City of Brampton shall by by-law designate Block 324 on Plan 43M-1386 (PIN 14254-0901) as to be deemed not to be part of registered plan of subdivision for the purposes of subsection 50(3) of the Planning Act ("Deeming By-law").

4. The owner of the Retained Lands shall provide a written consent to the Corporation of the City of Brampton that the owner consents to the council for the Corporation of the City of Brampton passing the Deeming By-law;
 5. If the owner of the Retained Lands through an application submitted pursuant section 46(2) of the Land Titles Act converts PIN 14254-8889 from LT Conversion Qualified (LTCQ) to Land Titles Absolute Plus, then the owner shall submit an application to consolidate the PINs of the Retained Lands;
 6. Building sewers and water service piping serving buildings that are not located within the same property may be interconnected if the owners of the properties and the municipality enter into an agreement that is registered against the title to which it applies to the satisfaction of the Chief Building Official;
 7. The applicant shall provide a draft reference plan detailing property boundaries and all easements for review prior to depositing;
 8. As a condition of severance, there is to be a mutual access easement between the retained and the severed parcels. The Owner shall agree to hold the City harmless in this regard and hereby waives and releases the City from any claim for compensation, injurious affection or other damages, claims, demands, losses, costs, suits or other proceedings by anyone arising or which may arise as a result of such access 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 a separate part(s) where the pedestrian easement is to be conveyed;
 - c. A memorandum to the Traffic Planning group setting out the part(s) 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.
 9. 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;
 10. Satisfactory arrangement shall be made between the owner and the Region regarding land dedication and access configuration;
 11. Prior to releasing Regional Clearance of Consent Approval, a non-refundable processing fee of \$1,435.00 is required as per the Region's User Fees and Charges By-law (5-2023).
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Background:

The application was deferred at the August 1, 2023, and September 12, 2023, Committee of Adjustment meetings as the applicant requested additional time to discuss legal matters. The applicant has amended the description of the severed and retained parcels. The original consent application, Site B was described as the severed lands and consolidated with Site B1, while Site A was described as the retained lands. The amended consent application describes Site A being the severed lands which are to be conveyed to Loblaws Companies Ltd; and the retained lands as Site B and Site B1 which would continue to be owned by Cabbage Patch holdings.

- **Official Plan:** The subject property is designated 'Residential' in the Official Plan;
- **Secondary Plan:** The subject property is designated 'District Retail' in the Fletcher's Meadow (Area 51); and
- **Zoning By-law:** The subject property is zoned 'Commercial Three' according to By-Law 270-2004, as amended.

Current Situation:

The intent of this application is to formally sever the subject lands, where Site A will be severed and conveyed to Loblaws Companies Ltd., and the area identified as Site B will be retained and consolidated with Site B1. The retained lands will remain within Cabbage Patch Development Inc. ownership. The owner is also requesting to establish shared access, servicing and overland flow easements. The proposed severed and retained lands maintain all Zoning By-law requirements for lot size and dimensions. 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,

Rajvi Patel

Rajvi Patel, 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 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>	<p>The proposed severance, access and servicing easements do not present any concern with regard to the Official Plan or adjacent plans of subdivision.</p> <p>As a condition of the consent application approval, the City of Brampton requires that the owner register a s. 118 restriction under the Land Titles Act on the retained lands to prevent a transfer or charge of anything but the whole of the retained lands without the consent of the City of Brampton. In addition to or as an alternative to the s.118 restriction, the City of Brampton also requires the owner to consent to the inclusion of a condition requesting Council, by by-law, to deem Block 324 on Plan 43M1386 (PIN 14254-0901) not to be a part of a registered plan of subdivision. De-registration of Block 324 will allow the retained lands to legally merge.</p>
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 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 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. A condition of approval is recommended that the owners of the properties and the municipality enter into an agreement that is registered against the title to which it applies to the satisfaction of the Chief Building Official.
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.