

**Date:** 2023-09-19

**Subject:** Cabbage Patch Developments Inc., the owner of 5, 17, and 31 Worthington Avenue, consents to the City de-registering Block 324 on Plan 43M1386 from a plan of subdivision in order to legally merge three parcels of land

**Contact:** Legal Counsel - Eugenia Bashura - 905-874-2682

**Report Number:** Legislative Services-2023-807

**Recommendations:**

1. That the report from Eugenia Bashura, Legal Counsel, Real Estate & Planning Law to the Council Meeting of October 18, 2023, re: **Cabbage Patch Developments Inc., the owner of 5, 17, and 31 Worthington Avenue, consents to the City de-registering Block 324 on Plan 43M1386 from a plan of subdivision in order to legally merge three parcels of land**, be received;
2. That Council enact a by-law to deem Block 324 on Plan 43M1386 not to be a part of a registered plan of subdivision for the purposes of subsection 50(3) of the *Planning Act*; and
3. That the City provide notice of passage of the by-law as required by subsection 50(29) of the *Planning Act*.

**Overview:**

- The owner of the three adjacent parcels (PINs 14254-8889, 14254-0901 and 14254-8887), Cabbage Patch Developments Inc., wishes to sever a portion of PIN 14254-8887 and sell it.
- However, if severance is granted, the retained lands (PINs 14254-8889, 14254-0901 and portion of 14254-8887) will not merge because PIN 14254-0901 is a whole block on a plan of subdivision and can be sold or charged at any time without obtaining a consent from the Committee of Adjustment.
- As a condition of the consent application approval, the City of Brampton required the owner at the time to 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 required 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.
- Once the by-law is registered on title and the retained lands are merged:
  - the City of Brampton will be in a position to consent to the removal of the s.118 restriction if it has already been registered on title of the retained lands; or
  - the registration of s. 118 restriction will not be required as the risk of the fracture of the retained lands through the sale or charge of PIN 14254-0901 will be eliminated.

### Background:

Cabbage Patch Developments Inc. (“**Owner**”) is the registered owner of the three adjacent parcels in the City of Brampton (“**City**”), which are legally and municipally described below (the “**Subject Lands**”):

<b>PIN #</b>	<b>Legal Description</b>	<b>Municipal Address</b>
14254-8887	Pt Blk 114 PL 43M1471 except Pts 1&2 43R29475, Pts 13-15 43R36972	11 and 35 Worthington Avenue 10, 20, and 30 Brisdale Drive
14254-8889	Pt Lt 11 Con 3 W Hurontario St Chinguacousy Pt 1 43R24092 except Pts 4, 21, 22, 23&24 43R30325, Pts 4&5 expropriation PI PR249902, Pts 1-12 43R36972	5 Worthington Avenue
14254-0901	Block 324, Plan 43M1386	5, 17 and 31 Worthington Avenue

The Owner wishes to redevelop the Subject Lands by severing a portion of PIN 14254-8887 and selling it (“**Severed Lands**”, also named in the Owner’s consent application as Site A). The Owner will keep the remaining portion of PIN 14254-8887, PIN 14254-8889, and PIN 14254-0901 (“**Retained Lands**”, also named in the Owner’s consent application as Site B and Site B.1).

The Owner’s sketch, provided as part of the Owner’s consent application, which shows how the Subject Lands will be severed is attached as Appendix 1.

The Owner plans to seek the Committee of Adjustment’s approval of the consent application on October 3, 2023.

PIN 14254-0901 is a whole block on a plan of subdivision (the plan of subdivision is attached as Appendix 2). This means that the Owner can sell or mortgage this parcel at any time without having to obtain a consent from the Committee of Adjustment. If the

Owner sells or mortgages PIN 14254-0901, it will fracture the Retained Lands and can lead to various issues, including issues with servicing, access, parking, and zoning.

As a condition of the consent application approval, the City required the owner at the time to 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.

In addition to or as an alternative to the s.118 restriction, the City required 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 for the purposes of subsection 50(3) of the *Planning Act* (“**Deeming By-law**”). This will allow the Retained Lands to legally merge.

Once the Deeming By-law is registered on title of the Retained Lands and the Retained Lands are merged, the City of Brampton will be in a position to consent to the removal of the s.118 restriction if it has already been registered on title of the Retained Lands.

Alternatively, if at the time of the registration of the Deeming By-law on title, the s. 118 restriction has not been registered yet, then the owner at the time will not need to register s. 118 restriction on the Retained Lands as the risk of the fracture of the Retained Lands through the sale or charge of PIN 14254-0901 will be eliminated.

### **Current Situation:**

Subsection 50(4) of the *Planning Act* enables Council by by-law to designate any plan of subdivision, or part thereof, that has been registered for at least eight years, and deem it not to be a registered plan of subdivision for the purpose of subsection 50(3) of the *Planning Act*. The enactment of the Deeming By-law in this case will result in the legal merger of the Retained Lands.

Registered Plan 43M was registered on April 6, 2000. The eight-year registration requirement has been met. Furthermore, the City’s Planning Department is in favour of this request for de-registration and has concluded that it represents good planning and conforms to the policies and regulations for the area.

### **Corporate Implications:**

#### Financial Implications:

There are no financial implications.

#### Legal Implications:

The purpose of s. 118 restriction in this case is to prevent a transfer or charge of anything but the whole of the Retained Lands without the consent of the City. If Council passes the

Deeming By-law, then the Retained Lands will merge. This means that s. 118 restriction will not be required.

**Strategic Focus Area:**

This report furthers the following strategic focus area:

- Growing Urban Centres & Neighbourhoods: Focusing on an economy that thrives with communities that are strong and connected.

**Conclusion:**

It is recommended that Block 324 be de-registered to effect the legal merger of the Retained Lands. This represents good planning and conforms to the policies and regulations for the area.

Authored by:

Reviewed by:

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Sameer Akhtar, City Solicitor  
Legislative Services

Approved by:

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Paul Morrison  
Commissioner of Legislative Service

**Attachments:**

- Appendix 1 – Sketch submitted with the consent application
- Appendix 2 – Plan of Subdivision 43M-1386