

Memorandum to the City of Markham Committee of Adjustment

March 8, 2022

File: B/023/21
Address: 4118 14th Avenue and 85 Citizen Court, Markham
Applicant/Owner: Humboldt Properties Inc.
Agent: KLM Planning Partners
Hearing Date: Wednesday, March 9, 2022

The following comments are provided on behalf of the Central District Team. The applicant is requesting provisional consent to:

- a) sever and convey a parcel of land with an approximate lot frontage of 151 m (495 ft.) and an approximate lot area of 1.9 ha (4.7 ac) (Part 5);
- b) retain a parcel of land with an approximate lot frontage of 109 (358 ft.) and an approximate lot area of 1.4 ha (3.5 ac) (Parts 1 and 4); and
- c) establish servicing easements in favour of the severed lands (Parts 2 and 3).

The purpose of the Consent application (the “Application”) is to facilitate the severance of the subject commercial lands, which are currently functioning as two separate parcels municipally known as 85 Citizen Court (the “Retained Lands”) and, 4118 14th Avenue (the “Severed Lands”), for the purposes of establishing two legally separate lots of record.

BACKGROUND

Property Description

The 3.30 ha (8.15 ac) subject lands are located north of 14th Avenue, east of Birchmount Road, and south of Citizen Court (see Appendix ‘A’ – Aerial Photo). The lands are located within an established business park comprised of a mix of one and two-storey industrial, commercial, and office buildings.

There is an existing 5,206.2 m² (56,039 ft²) one-storey commercial building located on the northern portion of the subject lands, municipally known as 85 Citizen Court. According to City records, the building was constructed circa 1989. The building contains various commercial tenants including InSource, CFAA, and Whole Health. Driveway access is provided at Citizen Court.

There is an existing 6,310 m² (67,920.27 ft²) one-storey commercial building located on the southern portion of the subject lands, municipally known as 4118 14th Avenue. According to City records, the building was constructed circa 1998. Currently, Murata Power Solutions and Brighthomes Interior Group are the only tenants in the building. Driveway access is provided on 14th Avenue.

An existing retaining wall with a handrail bisects and separates the two portions of the subject lands.

Proposal

Severed and Conveyed Parcels

The applicant is proposing to sever and convey 4118 14th Avenue, which has an approximate lot frontage of 151 m (495 ft.) and an approximate lot area of 1.9 ha, identified as Part 5 on the reference plan (Appendix 'B'). The Retained Lands, 85 Citizen Court, has an approximate lot frontage of 109 (358 ft.) and an approximate lot area of 1.4 ha (3.5 ac), as identified as Parts 1 and 4 on the reference plan (Appendix 'B').

The existing buildings on both the Severed and Retained Lands will remain as is. No new development is being proposed on the subject lands, as the purpose of the application is to establish two legally separate lots of record.

Easements

The applicant is proposing to establish servicing easements on the Retained Lands in favour of the Severed Lands (Parts 2 and 3 on the reference plan, as identified in Appendix 'B'), to allow for servicing access for the proposed severed parcel at 4118 14th Avenue, identified as Part 5 on the reference plan (Appendix 'B').

Previous Consent Applications

According to City records, the Committee approved consent applications on the subject lands, which are detailed as follows:

- In 1997, the Committee of Adjustment ("the Committee") had approved a consent to mortgage (*B/30/97*) on the subject lands.
- In 2001, the Committee approved a consent application to sever and convey 4118 14th Avenue and retain 85 Citizen Court, and establish the required servicing easements (*B/37/01*). However, the application had lapsed due to unfulfilled conditions.

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24, 2017, and further updated on April 9, 2018)

The Official Plan designates the subject property "General Employment", which permits single and multi-unit industrial buildings specifically for manufacturing, processing and warehousing as primary uses. The designation also permits trade schools as well as retail, service, and office as accessory uses.

Zoning By-Law 108-81

The subject property is split zoned, with 85 Citizen Court zoned as "Select Industrial and Limited Commercial – M.C. (40%)", and 4118 14th Avenue zoned as "Select Industrial and Limited Commercial – M.C. (60%)" under By-law 108-81, as amended. Both the severed and retained parcels would comply with the minimum lot area and lot frontage required in the Zoning By-law.

Public Authorities By-law 2009-96

In 2009, Council adopted Citywide By-law 2009-96, to safeguard properties from non-compliance as a result of land acquisition by a public authority. As such, the future road widening of 14th Avenue and resulting reduced landscaping would not result in non-compliance.

Zoning Preliminary Review (ZPR) Undertaken

The applicant has completed a Zoning Preliminary Review (ZPR) on January 19, 2022 and confirmed the minimum lot area and minimum lot frontage requirements.

COMMENTS

Proposed Severance

The applicant is proposing to sever and convey 4118 14th Avenue, which has an approximate lot frontage of 151 m (495 ft.) and an approximate lot area of 1.9 ha, identified as Part 5 on the reference plan (Appendix 'B'). The Retained Lands, 85 Citizen Court, has an approximate lot frontage of 109 (358 ft.) and an approximate lot area of 1.4 ha (3.5 ac), identified as Parts 1 and 4 on the reference plan (Appendix 'B').

Given that the proposed size and shape of the proposed lots are consistent with other lots in the surrounding industrial area and that the two municipal addresses are currently functioning as separate lots, Staff do not have any concerns related to the approval of the proposed severance. Approval of the severance, particularly with the requested easement described in the following subsection, will ensure that the two properties will function independently.

Proposed Easement

The applicant is proposing to establish servicing easements on the Retained Lands in favour of the Severed Lands (Parts 2 and 3 on the reference plan, as identified in Appendix 'B'). Part 2 will allow for sanitary and storm sewer access and Part 3 will allow for water servicing access for the proposed severed parcel at 4118 14th Avenue, identified as Part 5 on the reference plan (Appendix 'B') and as outlined within the Appendix 'C' conditions.

Staff have received comments from the City's Waterworks department noting that the proposed water servicing easement (Part 3) must be conveyed as a 6 metre wide municipal easement in favour of the City, as per the City's Engineering Design Criteria. In order for the City to accept Part 3 as a municipal easement, existing water connection must conform to City Design Standards, to the satisfaction of the Waterworks staff, as identified within the Appendix 'C' conditions. Staff do not have concerns with the requested easements subject to the conditions listed in Appendix 'C'.

York Region Comments

The Regional Municipality of York (the "Region") provided comments on February 16, 2022, requesting the acquisition of additional lands for the future road widening along 14th Avenue (see Appendix 'D' – York Region Letter). The Region has no objections to the consent application, subject to the conditions outlined in Appendices 'C' and 'D'.

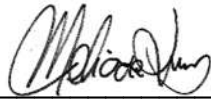
PUBLIC INPUT SUMMARY

No written submissions were received as of March 8, 2022. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

In concluding that the proposal is appropriate, Staff have had regard for the criteria in Section 51 (24) of the Planning Act and recommend approval of the consent application subject to the conditions in Appendix 'D'.

PREPARED BY:



Melissa Leung, Planner, Central District

REVIEWED BY:



Dimitri Pagratis, Senior Planner, Central District

APPENDICES

Appendix 'A' – Aerial Photo

Appendix 'B' – Plans

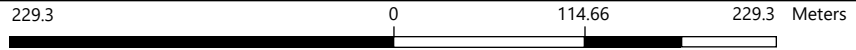
Appendix 'C' – Conditions

Appendix 'D' – York Region Letter



- Legend**
- Parcel
 - Parks
 - Under Development
 - <all other values>
 - Ontario Road Network
 - Ontario Water Body

1: 4,514



DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email cgis@markham.ca and you will be directed to the appropriate department.

Notes
85 Citizen Court and 4118 14th Avenue

Appendix B
 File: 21.135209.000.00.CSNT
 Date: 3/8/2022

SCHEDULE				
PART	PART OF LOT	CONCESSION	ALL OF PIN	AREA (ha)
1				1.3387
2				0.0642
3	6	5	02988-0029 (LT)	0.0345
4				0.0706
5				1.9240

PARTS 1 2 3 4 AND 5 SUBJECT TO RIGHT AS IN R452629

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT

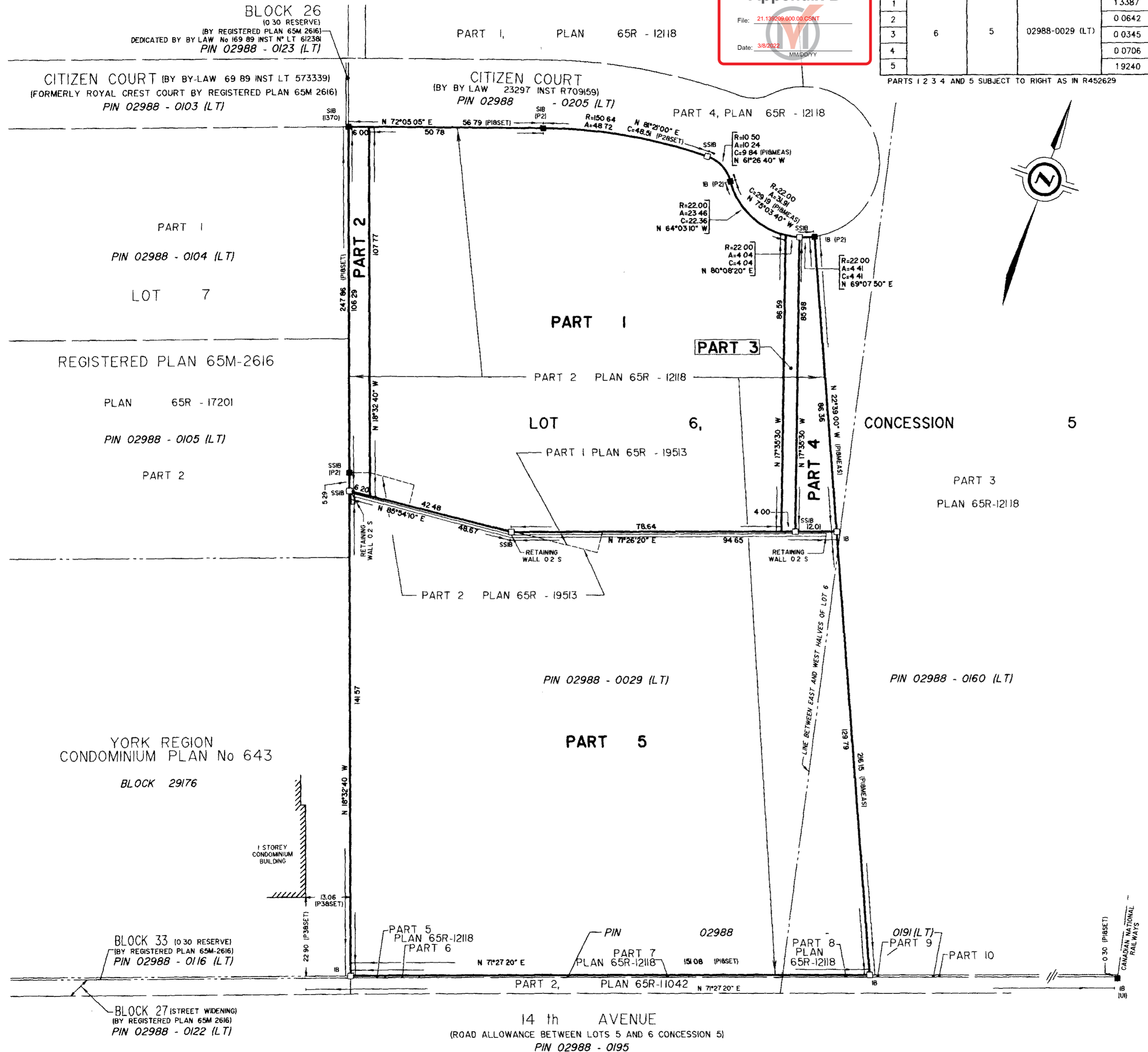
PLAN 65R-24025

RECEIVED AND DEPOSITED

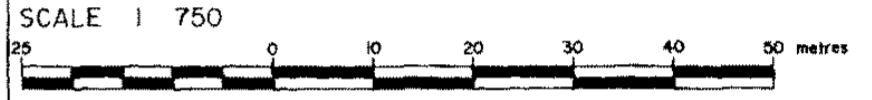
DATE AUGUST 02, 2001 DATE 02 Aug 2001

Pier de Rosa
 PIER DE ROSA
 ONTARIO LAND SURVEYOR

B. Wilton, Asst.
 DEPT. LAND REGISTRAR FOR THE
 REGION (No 65)



PLAN OF SURVEY OF
PART OF LOT 6, CONCESSION 5
 (GEOGRAPHIC TOWNSHIP OF MARKHAM, COUNTY OF YORK)
TOWN OF MARKHAM
 REGIONAL MUNICIPALITY OF YORK



J D BARNES LIMITED

METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

NOTES

BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE WEST
 LIMIT OF PART 2 PLAN 65R-12118 HAVING A BEARING OF N 18° 32' 40" W

- DENOTES SURVEY MONUMENT FOUND
- DENOTES SURVEY MONUMENT SET
- SIB DENOTES STANDARD IRON BAR
- SSIB DENOTES SHORT STANDARD IRON BAR
- IB DENOTES IRON BAR
- CC DENOTES CUT CROSS
- WIT DENOTES WITNESS
- MEAS DENOTES MEASURED
- 1370 DENOTES VLADIMIR KRUMAR LIMITED
- P1 DENOTES PLAN 65R-12118
- P2 DENOTES PLAN 65R-19513
- P3 DENOTES METRO CONDOMINIUM PLAN No 643

SURVEYOR'S CERTIFICATE

I CERTIFY THAT
 1 THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM
 2 THE SURVEY WAS COMPLETED ON JULY 31 2001

DATE AUG 02, 2001

Pier de Rosa
 PIER DE ROSA
 ONTARIO LAND SURVEYOR

J.D. BARNES LIMITED

SURVEYING MAPPING
 LAND INFORMATION SERVICES

145 RENFREW DRIVE SUITE 160
 MARKHAM ONTARIO L3R 9R6
 TEL (905) 477-3600
 FAX (905) 477-3882

DRAWN BY	PDR	CHECKED BY	PDR	REFERENCE NO	01-21-658-00
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Appendix C

File: 21.139209.000.00.CSNT

Date: 03/08/22
MM/DD/YY

APPENDIX 'C' CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF B/023/21

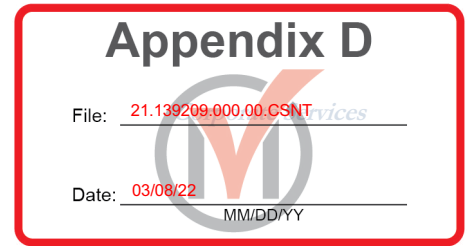
1. Payment of all outstanding realty taxes and local improvements charges owing to date against both the subject and retained parcels, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled.
2. Submission to the Secretary-Treasurer of the required transfers to effect the severances applied for under File B/023/21, in duplicate, conveying the subject lands, and issuance by the Secretary Treasurer of the certificate required under subsection 53(42) of the *Planning Act*.
3. Submission to the Secretary-Treasurer a revised deposited reference plan showing the subject land, which conforms substantially to the application as submitted.
4. Payment of the required Conveyance Fee for the creation of ICI lots per City of Markham Fee By-law 211-83, as amended.
5. The property owner on the north "Part 1 PLAN 65R-24025" covenants and agrees to grant a private servicing easement over Part 2 Plan 65R-24025 in favor of the adjacent property owner to the south "Part 5 PLAN 65R-24025". The Easement grants the adjacent property owner to the south rights to access, locate, construct, install, maintain, operate, alter, repair, periodically test, replace, inspect, and connect to the private sewers and services necessary for the operation of the buildings located on Part 5 PLAN 65R-24025.
6. The Owner on the north "Part 1 PLAN 65R-24025" covenants and agrees to convey a 6m wide municipal easement over the existing water connection on Part 3 Plan 65R-24025, in favor of the City of Markham for the municipal water service connection.
7. The Owner covenants and agrees to rectify the existing water connection on Part 3 Plan 65R-24025 to conform to the current City's Design Standards at the Owner's cost. Furthermore, the owner covenants and agrees to submit the water servicing drawings to the City to the satisfaction of the Director of Environmental Services or their designate.
8. That the applicant satisfies the requirements of York Region, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix 'D' to this Staff Report, to the satisfaction of York Region, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of York Region.

9. Fulfillment of all of the above conditions within one (1) year of the date that notice of the decision was given under Section 50(17) or 50(24) of the *Planning Act*, R.S.O. 1990, c.P.13.

CONDITONS PREPARED BY:

A handwritten signature in black ink, appearing to read "Melissa Leung". The signature is cursive and somewhat stylized.

Melissa Leung, Planner, Central District



File No.: 21.139209.000.00.CSNT
(CONS.22.M.00004)

February 16, 2021

Justin Mott
Secretary-Treasurer
Committee of Adjustment
City of Markham
101 Town Centre Blvd
Markham, Ontario
L3R 9W3

**RE: Consent Application 21.139209.000.00.CSNT (CONS.22.M.0004)
Humboldt Properties Inc.
4118 14th Avenue
City of Markham**

The Regional Municipality of York ("Region") has completed its review of the above noted consent application to create one new commercial lot. The property is municipally known as 4118 14th Avenue and is located on the north side of 14th Avenue, west of Kennedy Road.

The site is designated "Urban" on Map 1 of the York Region Official Plan – 2010 (YROP-2010).

The property abuts 14th Avenue which is a Regional Road as identified on Map 12 of the YROP-2010. The Region is protecting for a 43 metre(s) right-of-way along the frontage of this section of 14th Avenue for the purpose of a road widening as per Section 7.2.49 of the YROP-2010.

The Region has no objection to the consent application subject to the following conditions being satisfied:

1. The Owner shall provide a basic 43 metre right-of-way for this section of 14th Avenue. As such, all municipal setbacks shall be referenced from a point 21.5 metres from the centreline of construction of 14th Avenue and any additional

lands required for turn lanes at intersections will be conveyed to York Region for public highway purposes, free of all costs and encumbrances, to the satisfaction of York Region Solicitor.

2. The Owner shall arrange for the preparation, review and deposit on title of a 65R plan, describing the lands identified below, to the satisfaction of the Region. The reference plan shall identify all the lands to be conveyed to the Region:
 - a. A road widening to establish a right-of-way 21.5 metres from the centerline of construction of 14th Avenue.

Alternatively, the Owner shall submit documentation to the Region confirming that the existing streetline represents sufficient right-of-way as required by the Regional Official Plan.

3. The Owner shall convey the lands identified in the R Plan, pursuant to Condition 2, to the Region, for the purpose of road widenings and easements, free of all costs and encumbrances, to the satisfaction of the Regional solicitor.
4. The Owner shall provide a solicitor's certificate of title in a form satisfactory to the Regional Solicitor, at no cost to the Region, with respect to the conveyance of these lands to the Region.
5. The Region requires the Owner submit a Phase One Environmental Site Assessment ("ESA") in general accordance with the requirements of the *Environmental Protection Act* and O. Reg. 153/04 Records of Site Condition, as amended ("O. Reg. 153/04"). The Phase One ESA must be for the Owner's property that is the subject of the application and include the lands to be conveyed to the Region (the "Conveyance Lands"). The Phase One ESA cannot be more than two (2) years old at: (a) the date of submission to the Region; and (b) the date title to the Conveyance Lands is transferred to the Region. If the originally submitted Phase One ESA is or would be more than two (2) years old at the actual date title of the Conveyance Lands is transferred to the Region, the Phase One ESA will need to be either updated or a new Phase One ESA submitted by the Owner. Any update or new Phase One ESA must be prepared to the satisfaction of the Region and in general accordance with the requirements of O. Reg. 153/04. The Region, at its discretion, may require further study, investigation, assessment, delineation and preparation of reports to determine whether any action is required regardless of the findings or conclusions of the submitted Phase One ESA. The further study, investigation, assessment, delineation and subsequent reports or documentation must be prepared to the satisfaction of the Region and in general accordance with the requirements of O. Reg. 153/04. Reliance on the Phase One ESA and any subsequent reports or documentation must be provided to the Region in the Region's standard format and/or contain terms and conditions satisfactory to the Region.

The Region requires a certified written statement from the Owner that, as of the date title to the Conveyance Lands is transferred to the Region: (i) there are no contaminants of concern, within the meaning of O. Reg. 153/04, which are present at, in, on, or under the property, or emanating or migrating from the property to the Conveyance Lands at levels that exceed the MOECC full depth site condition standards applicable to the property; (ii) no pollutant, waste of any nature, hazardous substance, toxic substance, dangerous goods, or other substance or material defined or regulated under applicable environmental laws is present at, in, on or under the Conveyance Lands; and (iii) there are no underground or aboveground tanks, related piping, equipment and appurtenances located at, in, on or under the Conveyance Lands.

6. The Owner shall be responsible for all costs associated with the preparation and delivery of the Phase One ESA, any subsequent environmental work, reports or other documentation, reliance, and the Owner's certified written statement.
7. This application is subject to York Region's development applications processing fees as identified in By-law No. 2010-15. The review fee for Consent to Sever is \$1,100. The Review and approval of the Environmental Site Assessment Report fee is \$1,800. All payments shall be in the form of a cheque and made payable to "The Regional Municipality of York" and forwarded to Community Planning + Development Services. Development application fees are subject to annual adjustments and increases. Any unpaid fees, regardless of the year the application is submitted, will be subject to current fee requirements.
8. Prior to final approval, the Planning and Economic Development Branch shall certify that Conditions 1-7 have been met to its satisfaction.

With respect to the conditions above, we request a copy of the Notice of Decision when it becomes available.

Water resources has no comment with respect to the severance. However, any future development applications will be subject to the following:

Highly Vulnerable Aquifer

Should the proposed major development include bulk fuel ($\geq 2500L$) or bulk chemicals ($\geq 500L$) within the HVA, a Contaminant Management Plan (CMP) will be required prior to future planning approval, for Water Resources review and approval.

If a CMP is not required, a letter prepared by a qualified professional will be required in its place stating that the above noted activities will not be occurring.

Salt Management

As the site is within a vulnerable area, Water Resources recommends the use of a contractor who is certified by Smart About Salt, and use of best management practices identified in the TAC Synthesis of Best Management Practices for Salt and Snow are followed: <https://www.tac-atc.ca/sites/tac-atc.ca/files/site/doc/resources/roadsalt-1.pdf>.

If the proposed development includes a parking lot, Water Resources recommends following the Parking Lot Design Guidelines:

<https://www.lsrca.on.ca/Shared%20Documents/reports/Parking-Lot-Design-Guidelines-Salt-Reduction.pdf>.

Should you have any questions regarding the above, please contact Gabrielle Hurst at extension 71538 or through electronic mail at gabrielle.hurst@york.ca

Regards,

Gabrielle Hurst

Gabrielle Hurst, MCIP, RPP. Associate Planner
Programs and Process Improvement, Planning and Economic Development Branch