

Committee of the Whole (1) Report

DATE: Tuesday, September 14, 2021

WARD: 2

**TITLE: ROYBRIDGE HOLDINGS LIMITED
A BY-LAW TO DEREGISTER BLOCKS 3 AND 4, PLAN 65M-3627 FROM THE PLAN OF SUBDIVISION
101 MILANI BOULEVARD
VICINITY OF HIGHWAY 27 AND MILANI BOULEVARD**

FROM:

Haiqing Xu, Deputy City Manager, Planning and Growth Management
Wendy Law, Deputy City Manager, Administrative Services and City Solicitor

ACTION: DECISION

Purpose

To seek approval from the Committee of the Whole to deem Blocks 3 and 4, Plan 65M-3627 not to be blocks within a registered plan of subdivision pursuant to subsection 50(4) of the *Planning Act*.

Report Highlights

- Deregistration of Blocks 3 and 4, Plan 65M-3627 from the registered plan of subdivision will allow the blocks to merge as one property on which a new employment building will be constructed.
- Legal merger of title of the parcels is required to protect against the conveyance of separately conveyable parcels.
- Deregistration of a plan of subdivision allows two or more lots or blocks, which are owned by the same person, to merge in title, thus becoming one property.

Recommendations

1. THAT Council enact a by-law to deem Blocks 3 and 4, Plan 65M-3627 not to be blocks within a registered plan of subdivision pursuant to subsection 50(4) of the *Planning Act*,
2. THAT the by-law be registered on title to the lands in accordance with the timing provided for within this report; and
3. THAT the City provide notice of passage of the by-law as required by the *Planning Act*.

Background

On March 10, 2021, Council draft approved Site Development File DA.18.085 (Roybridge Holdings Limited) subject to conditions of approval to permit an employment building at 101 Milani Boulevard, located west of Highway 27, on the south side of Milani Boulevard, as shown on Attachment 1 (the “**Subject Lands**”).

The Subject Lands consist of four separate parcels of land described as Part of Blocks 2 and 41, and Blocks 3 and 4, Plan 65M-3627. One of the conditions of site plan approval is to consolidate and register the Subject Lands as one property. Roybridge Holdings Limited has made the application to consolidate the parcels, but from a legal perspective, the consolidation of parcels is not sufficient to allow the four parcels to merge as one property. Roybridge Holdings Limited has been able to satisfy this condition with the registration of a restriction against title to the Subject Lands pursuant to section 118 of the *Land Titles Act* (restricting any transfer or charge of the Subject Lands without the written consent of the City).

Consolidation of parcels takes place when two or more abutting parcels under a single ownership are consolidated at the land registry office pursuant to an Application to Consolidate Parcels. Consolidation of parcels creates a single parcel register but it does not create a merger of title when dealing with property that is the whole of a lot or block within a registered plan of subdivision. Even if two or more adjoining whole lots or blocks within a registered plan of subdivision are owned by the same person, they remain separately conveyable parcels.

Pursuant to subsection 50(5) of the *Planning Act*, a landowner cannot convey part of a lot or block within a registered plan of subdivision without further approvals under the *Planning Act* (part-lot control). However, subsection 50(3) of the *Planning Act* allows an owner to convey the whole of a lot or block within a registered plan of subdivision. The ability to convey the whole of a lot or block would not be restricted by a consolidation of parcels or the fact that a single building or structure is located on the boundary line between two or more parcels. However, if such a conveyance were to occur, both

Building Code and zoning compliance issues would arise due to insufficient fire separation and building setbacks between the parcels.

Previous Reports/Authority

The following link relates to a previous report regarding the Subject Lands:

[March 8, 2021, Committee of the Whole \(2\) \(Item 13, Report No. 11\)](#)

Analysis and Options

If Council does not pass a deregistration by-law, Blocks 3 and 4, Plan 65M-3627 will continue to be separately conveyable blocks within a registered plan of subdivision and could also be further subdivided by way of part lot control exemption. This is not considered appropriate given that a single employment building has been approved by the City to be constructed on the Subject Lands comprising the blocks.

In order to allow a single building to be constructed on two or more separately conveyable parcels, without these issues, legal merger of title to the parcels is required. In the case of the whole of a lot or block within a registered plan of subdivision, deregistration of the plan of subdivision allows two or more lots or blocks, which are owned by the same person, to merge in title, thus becoming one property. This solves both the Building Code and zoning compliance issues. Once two or more lots or blocks have merged in title, they can no longer be conveyed separately.

Subsection 50(4) of the *Planning Act* allows a municipality by by-law to designate any plan of subdivision, or part thereof, that has been registered for eight (8) years or more, not to be a registered plan of subdivision for the purposes of subsection 50(3) of the *Planning Act*. Plan 65M-3627 that is currently registered on title to the Subject Lands was registered on December 16, 2002. Given that Blocks 3 and 4, Plan 65M-3627 are whole blocks within a registered plan of subdivision, the enactment of such a by-law with respect to Blocks 3 and 4, Plan 65M-3627 will merge the parcels.

There is no right of appeal for property owners of Council's exercise of its authority to remove lots or blocks from a registered plan of subdivision under subsection 50(4) of the *Planning Act*.

Notice of the passing of the by-law will be required to be given within thirty (30) days of the passing in accordance with subsections 50(29) and (30) of the *Planning Act*. No notice is required prior to the passing of a by-law under subsection 50(4) of the *Planning Act*.

Notwithstanding the passing of the by-law, subsections 50(27) and (28) of the *Planning Act* state that a by-law passed under subsection 50(4) of the *Planning Act* is not effective until a certified copy or duplicate is registered in the proper land registry office.

In accordance with the conditions of site plan approval, Roybridge Holdings Limited has obtained a part-lot control by-law from the City to allow for boundary adjustments between the Subject Lands and adjacent lands, as well as for the creation of new access and servicing easements between the two parcels. The boundary adjustments and new easements have been approved by City staff and will be completed after the consolidation of parcels has been certified by the land registry office.

To avoid the unintended effect of negating the effectiveness of the part-lot control by-law, staff have agreed to delay registration of the by-law to be passed under subsection 50(4) of the *Planning Act* until such time as the boundary adjustments and easements have been registered and certified by the land registry office.

Financial Impact

There are no financial implications.

Broader Regional Impacts/Considerations

Not applicable.

Conclusion

Staff recommend the enactment and passing and subsequent registration of a by-law under subsection 50(4) of the *Planning Act* to deem Blocks 3 and 4, Plan 65M-3627 not to be blocks within a registered plan of subdivision. This will allow the blocks to merge as one property to facilitate the construction of a new employment building on the Subject Lands comprising the blocks.

For more information, please contact Candace Tashos, Legal Counsel, extension 3618.

Attachment

1. Context and Location Map.

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