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**Date** March 27, 2019 **Report No.** 2019-179

**To** Chair and Members  
City of Brantford Committee of Adjustment

**From** Brynne O'Neill  
Development Planner

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## 1.0 Type of Report

Committee of Adjustment Decision Regarding Application for Consent

## 2.0 Topic

**APPLICATION NO.** B08/2019

**AGENT/APPLICANT/OWNER:** NADG (LPM) LTD.; I.G Investment

Management Ltd.

**LOCATION** 84 Lynden Road

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## 3.0 Recommendation

- A. THAT application B08/2019 to create a long term lease for a portion of the lands municipally known as 84 Lynden Road, BE APPROVED, subject to the conditions attached in **Appendix A**.
- B. THAT the reason(s) for approval are as follows:
- Having regard for the matters under Section 51 (24) of the *Planning Act*, Staff is satisfied that the proposed development is desirable and compatible with the surrounding area and will not result in adverse impacts on surrounding properties. The Application is in conformity with the general intent of the policies of the Official Plan and Zoning By-law,

consistent with the policies of the Growth Plan for the Greater Golden Horseshoe and Provincial Policy Statement; and

- C. THAT pursuant to Section 53(17)-(18.2) of the *Planning Act*, R.S.O. 1990, c.P.13, the following statement SHALL BE INCLUDED in the Notice of Decision:

*“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report No. 2019-179.”*

#### 4.0 Purpose and Description of Application

A consent application for a long-term lease has been received for a portion of the lands municipally addressed as 84 Lynden Road, the site of Lynden Park Mall. The long term lease is proposed for the CIBC building in order to establish a lease that is longer than 21 years, as per Section 50(3) of the *Planning Act*. Previous to this application being made, the owner and the tenant have been operating with leases less than 21 years. The building is existing and no new development is being proposed at this time; the consent is simply for the tenure of the building.

Lands subject to long term lease	
Width:	36.51m
Depth:	38.59m
Area:	1,401.2m <sup>2</sup>

The majority of the lands at 84 Lynden Road are currently the subject of a Site Plan Control Application (SPC-18-17), and future development is anticipated. However, as mentioned above, there are currently no alterations proposed for the existing CIBC building at this time. The portion of the property where the lease is proposed to be established is located within the property at 84 Lynden Road. The consent application will not create a land-locked parcel, as the consent application is only for the tenure of the building, and does not separate it from the remainder of 84 Lynden Road. A location map and a conceptual site plan illustrating the proposed long-term lease are attached as **Appendices B and C**.

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## 5.0 Site Features

The subject building is located on the south side of Lynden Road, west of Woodyatt Drive. South of the lands subject to the long term lease is the Lynden Park Mall building, which is on the same property, but will not be subject to the long-term lease. Directly adjacent to the east of the subject building is a restaurant. North of the subject building, across Lynden Road are additional commercial uses.

An aerial photo, site photographs, and a land use map are attached as **Appendices, D, E and F.**

## 6.0 Input from Other Sources

### 6.1 Technical Comments

This application was circulated to all appropriate departments and agencies.

No adverse comments or objections were received from the commenting agencies. Detailed comments from the Building and Engineering Departments are attached as **Appendices G and H.**

### 6.2 Public Response

Notice of public hearing was issued by personal mail (16 notices) and by posting a sign on-site. Attached as **Appendix I** is a plan illustrating the notification area. Planning Staff have not received any written or verbal submissions at the time of writing this Report.

### 6.3 Grand River Notification

Notice of the public meeting was issued to representatives of the Six Nations of the Grand River and the Mississaugas of the Credit First Nation, with no response received to date.

## 7.0 Planning Staff Comments and Conclusion

### 7.1 Planning Act, R.S.O 1990

The *Planning Act* permits long-term leases to be established as per Section 50(3) of the *Planning Act*, which requires the lease be created

through consent should it be longer than 21 years. The *Planning Act* also sets the standard to which provincial interests and provincial and local policies and goals are implemented. Section 51(24) of the *Planning Act* lists criteria that Staff must have regard for when considering a consent application approved under Section 53 of the Act, for approval. Planning Staff have given regard to Section 51 (24) of the *Planning Act* and are satisfied that the application is desirable and compatible with the surrounding area and will not result in adverse impacts on surrounding properties.

Planning Staff are also of the opinion that the subject consent application is consistent with Section 51 (24) of the *Planning Act*.

## **7.2 Provincial Policy Statement (2014)**

The subject consent application has been reviewed with respect to the policies contained in the Provincial Policy Statement (PPS). The PPS is issued under the authority of Section 3 of the *Planning Act*, which requires that planning decisions “*shall be consistent with*” policy statements issued under the Act.

Planning Staff are of the opinion that this application is consistent with the policies in the PPS.

## **7.3 Places to Grow – Growth Plan for the Greater Golden Horseshoe (2017)**

The subject consent application has been reviewed with respect to the policies contained in the Growth Plan for the Greater Golden Horseshoe (Growth Plan). Section 1.2.1 of the Growth Plan outlines the principle that provide the basis for guiding decision in the Greater Golden Horseshoe on how land is developed, resources are managed and protected and public capital is invested. The proposed long term lease is consistent with these policies. Planning Staff are of the opinion that the proposed long term lease meets the policies of the Growth Plan.

## **7.4 City of Brantford Official Plan**

The subject lands are designated in the City’s Official Plan as “District Centre Commercial” (**Appendix J**). The “District Centre Commercial” designation permits retail uses such as banks, which is the current tenant of the subject building.

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Section 18.9.2 of the City's Official Plan states that: "Applications for consents will only be granted where:

- .1 *"The severance is for the purpose of infilling within existing development;*
- .2 *It is clearly not necessary in the public interest that a plan of subdivision be registered;*
- .3 *The lot can be adequately serviced by roads, sanitary sewage disposal, water supply, and storm drainage facilities;*
- .4 *No extension, improvement or assumption of municipal services is required;*
- .5 *The lot will have frontage on an improved public road, and access will not result in traffic hazards;*
- .6 *The lot will not restrict the ultimate development of adjacent lands;*
- .7 *The size and shape of the lot conforms to the Zoning By-law, and is appropriate to the use proposed and compatible with adjacent lots; and*
- .8 *The consent complies with all relevant provisions of this Official Plan."*

The consent application is for the creation of a long-term lease and no new lot is being created. The long-term lease allows for consistent ownership within a commercial development.

Planning Staff are of the opinion that the proposed consent application conforms to the policies of the Official Plan and the intent of the Official Plan is maintained.

## **7.5 City of Brantford Zoning By-law 160-90**

The Site is zoned "District Centre Commercial (H-C11-4) Special Exception Holding Zone" under Zoning By-law 160-90 (**Appendix K**). The proposed long-term lease does not impact the zoning of the existing use in any way and is simply to establish the tenure of the building. The site is subject to a holding provision, however, no new development is being proposed and Staff recommend that the consent application be supported.

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The existing building which is subject to the long-term lease conforms to all other provisions of the Zoning By-law.

## 7.6 Conclusion

A site inspection was completed on March 13, 2019. Upon completion of this visit and review of all relevant policies, Planning Staff are supportive of the application. The consent application represents good land use planning that will correct an existing situation. The proposed consent for a long term lease is in conformity with the Official Plan and meets the consent policies of Section 18.9.2. Should a landowner wish to establish a lease for over 21 years, they are required to go through the consent process, as per Section 50(3) of the *Planning Act*. A long term lease is commonplace in commercial developments such as Lynden Park Mall, and is an appropriate tenure model for the existing commercial building. The building subject to the long-term lease will continue to be accessed through the drive aisles and accesses that serve the remainder of 84 Lynden Road.

Having regard for the matters under Section 51 (24) of the *Planning Act*, Staff is satisfied that the consent application is desirable and compatible with the surrounding area and will not result in adverse impacts on surrounding properties. The proposal is consistent with the applicable planning policy framework in the PPS, and conforms to the Growth Plan, and Official Plan.

Planning Staff recommend that application No. B08/2019 be approved, subject to the attached conditions.



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Prepared on: March 27, 2019  
Prepared By:  
Brynne O'Neill, MCIP RPP  
Development Planner



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Reviewed By:  
Joe Muto, MCIP RPP  
Manager of Development Planning

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**APPENDIX A**  
**Conditions of Consent – B08/2019**

**Subject to the following conditions:**

1. ☒ Receipt of a registered reference plan showing the lands subject to the long term lease;
2. ☐ Receipt of payment for cash-in-lieu of parkland. (Payment for cash-in-lieu of parkland is to be based on an opinion of value for the lands in accordance with City of Brantford By-law 50-2018)
3. ☒ Receipt of confirmation that all taxes are paid up to date;
4. ☒ Receipt of confirmation that the Applicant shall submit to the Secretary-Treasurer a draft of the Transfer Lease for review (Upon registration a final copy of the Transfer deed shall be provided to the City);
5. ☐ Receipt of confirmation from the Applicant's solicitor that Section 50(3) or 50(5) of the Planning Act shall apply to any subsequent conveyance or transaction of or in relation to the parcel of land being the subject of this consent;
6. ☐ Receipt of confirmation from the Solicitor acting in the transfer that the severed parcel is merged in title with the adjacent property and that Section 50(3) or 50(5) of the Planning Act shall apply to any subsequent conveyance of the separate parcels;
7. ☐ Receipt of confirmation that the Zoning By-law Amendment is in full force and effect;
8. ☐ Receipt of confirmation that the necessary amendment to the approved Draft Plan of Subdivision has been approved;
9. ☐ Receipt of confirmation from the Engineering Department indicating that their requirements have been satisfied;
10. ☐ Receipt of confirmation from the Engineering Department indicating that their requirements have been satisfied concerning the driveway location;
11. ☐ Receipt of confirmation from the Engineering Department indicating that civic addresses have been assigned to the severed and retained parcels;
12. ☐ Receipt of confirmation that the lands to be severed and retained have been, or will be, independently serviced with water and sanitary sewer service by the

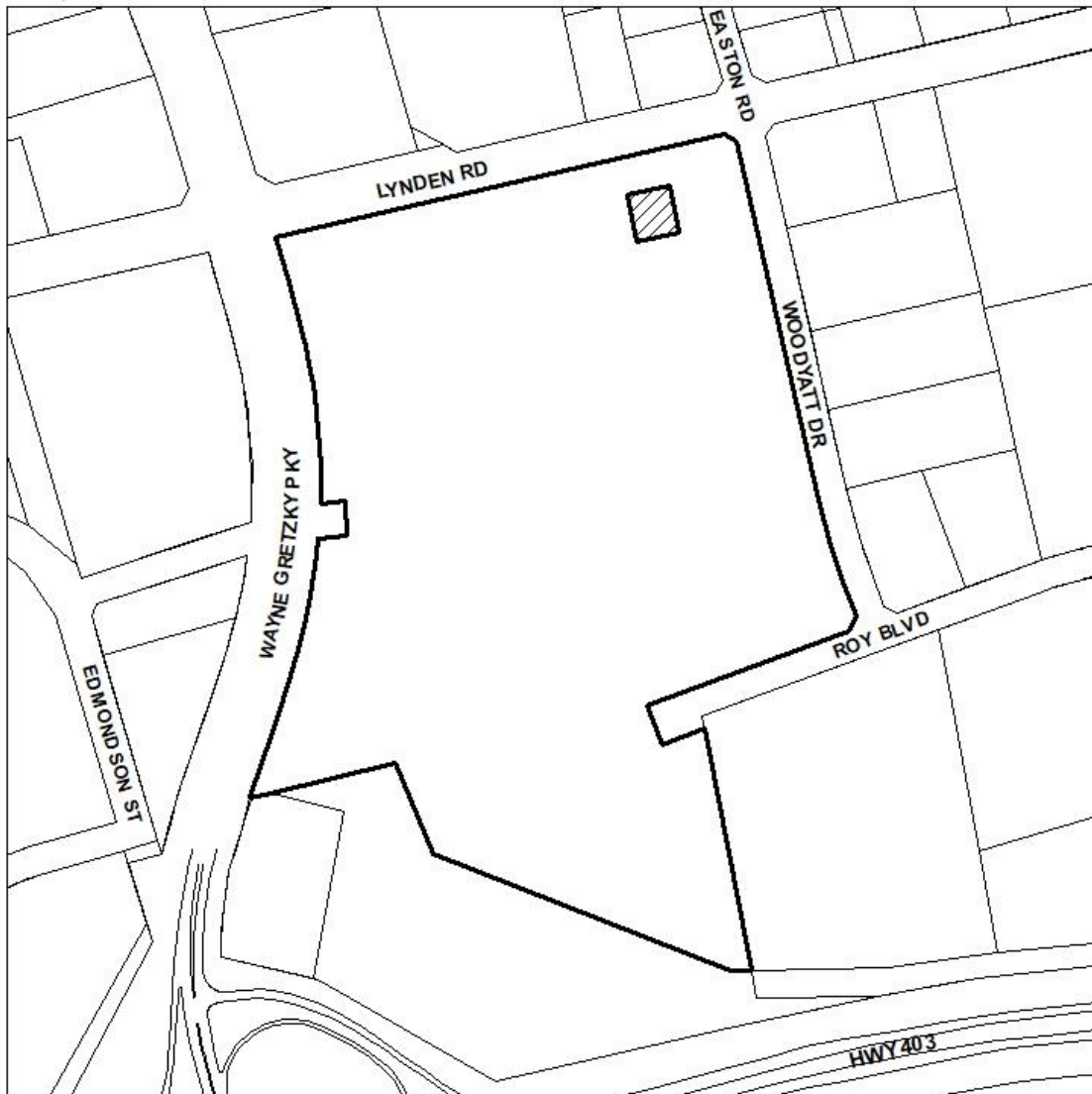
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- owner, to the satisfaction of the General Manager of Engineering and Operational Services;
13. ☐ Receipt of confirmation that the 0.3 m reserves have been lifted at the owner's cost to the satisfaction of the General Manager of Public Works Commission;
  14. ☐ Receipt of confirmation that the required 4.5 metre daylight corner with 0.3 metre reserve has been dedicated to the City, to the satisfaction of the General Manager of Public Works Commission;
  15. ☐ Receipt of confirmation that a road widening strip, as required by the Engineering Department, has been conveyed to the City, at no cost to the municipality, with any costs regarding the transfer being borne by the Applicant(s);
  16. ☐ Receipt of confirmation from the General Manager of Public Works Commission confirming their requirements have been satisfied regarding the receipt and approval of a lot grading plan addressing surface water drainage from both the severed and retained lands;
  17. ☐ Receipt of confirmation that survey evidence has been submitted showing that the dwellings and any accessory buildings or structures located on the severed and retained parcel comply with the requirements of the Zoning By-law to the satisfaction of the Chief Building Official;
  18. ☐ Receipt of confirmation that elevation drawings and calculations are provided to the Chief Building Official verifying that the spatial separations requirements of the Ontario Building Code are met relative to the severance line;
  19. ☐ Receipt of confirmation that the Grand River Conservation Authority requirements have been met;
  20. ☐ Receipt of confirmation that the Ministry of Transportation requirements have been met;
  21. ☒ That the above conditions be fulfilled and the Certificate of Consent be issued on or before March 27 2020, after which time the consent will lapse.





**APPENDIX B**  
**Location Map**

**LOCATION MAP**

Application: B08/2019  
84 Lynden Road

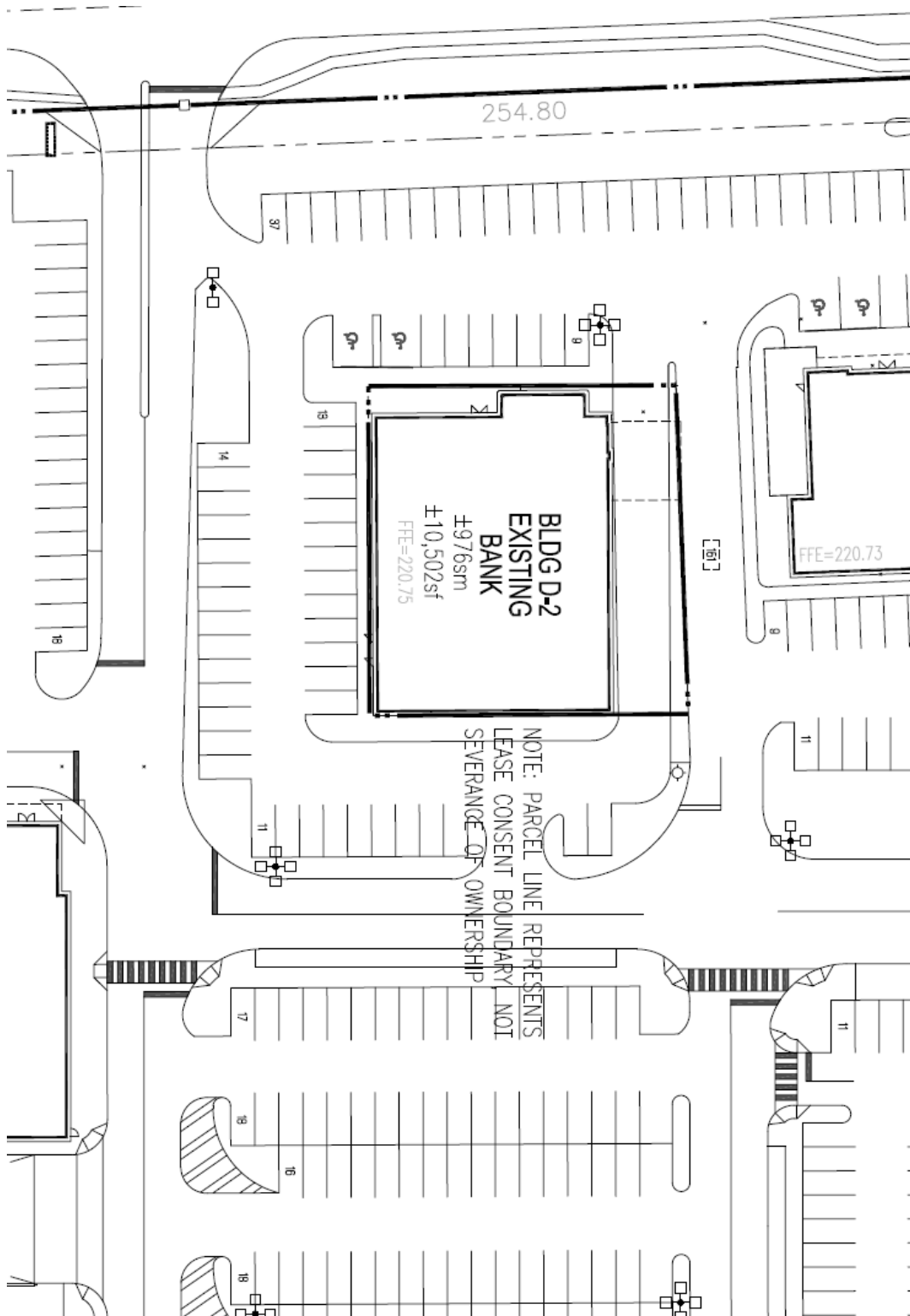


**Legend**

-  Subject Property
-  Location of the Long Term Lease Property



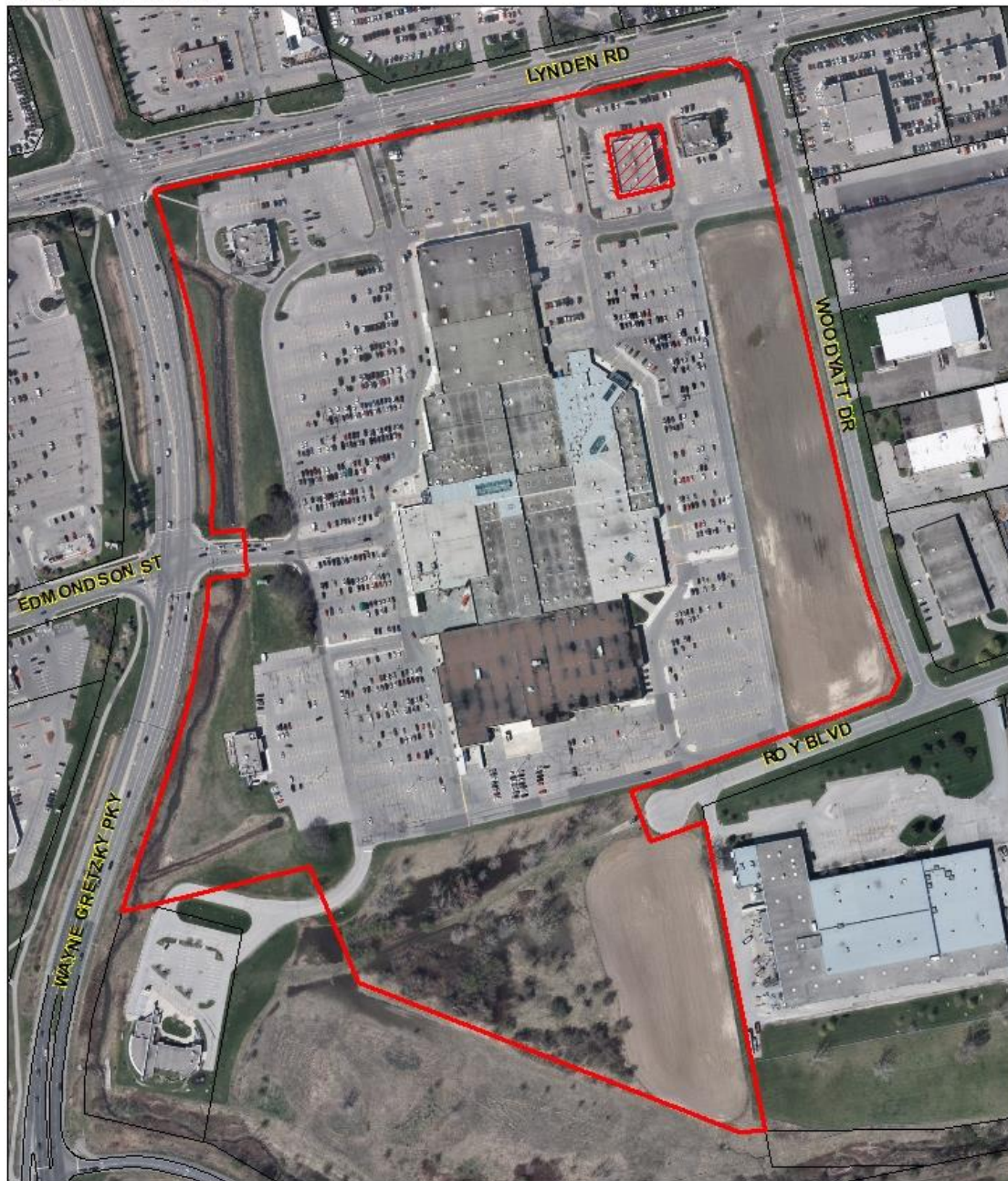
**APPENDIX C**  
**Site Plan**





**APPENDIX D**  
**Aerial Photo**

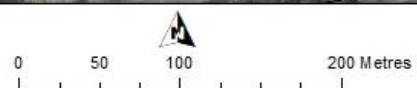
**AERIAL PHOTO (2017)**

Application: B08/2019  
84 Lynden Road



**LEGEND**

-  Subject Property
-  Location of the Long Term Lease Property



**APPENDIX E**  
**Site Photo**



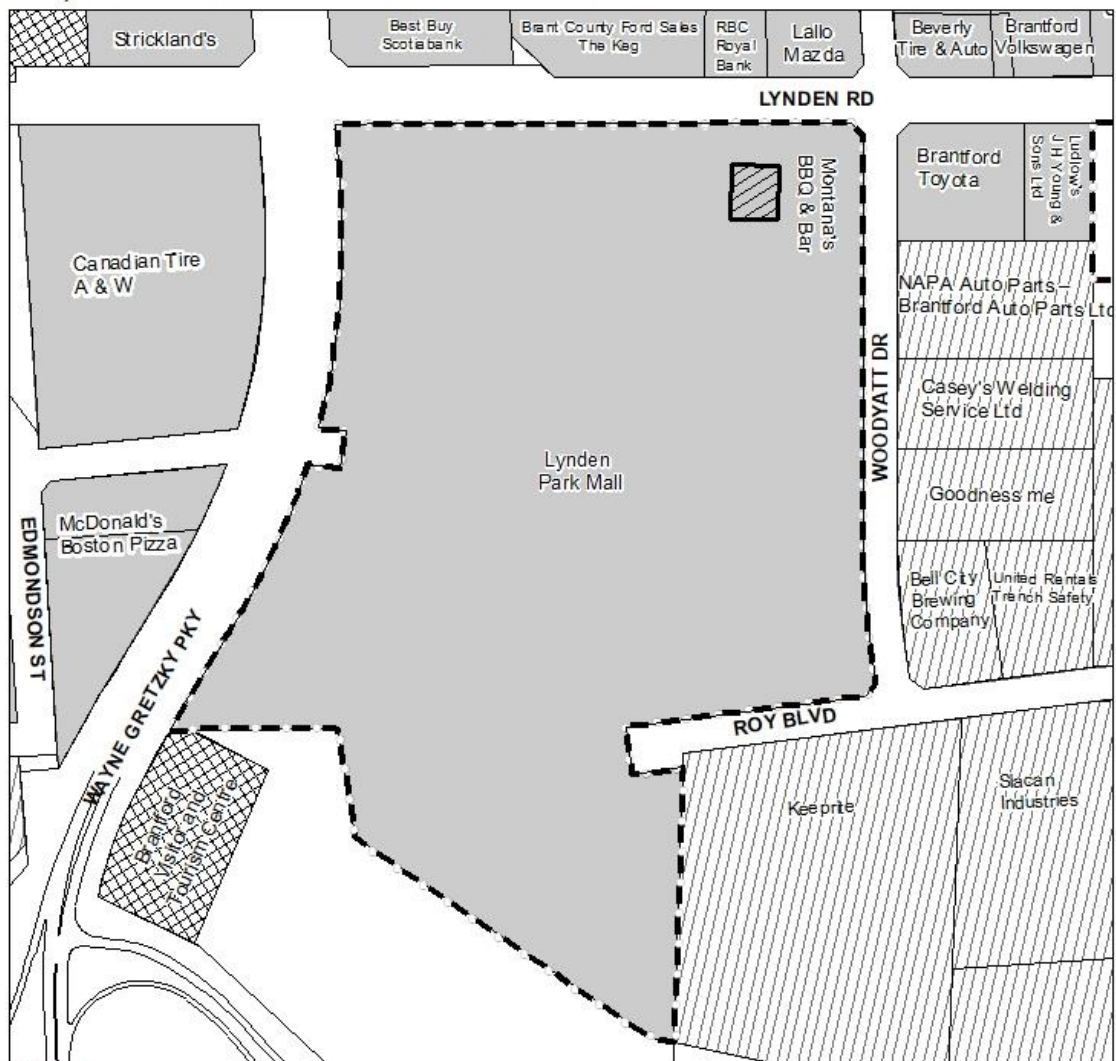
Figure 1: Existing building subject to long-term lease



## APPENDIX F Existing Land Uses

### LAND USE

Application: B08/2019  
84 Lynden Road



#### LEGEND

- Subject Property
- Location of the Long Term Lease Property
- RESIDENTIAL - Low Density (1 to 3 units)
- RESIDENTIAL - Medium Density (4 units & up to 3 storey high)
- RESIDENTIAL - High Density (4 storey or higher)
- INSTITUTIONAL
- COMMERCIAL
- INDUSTRIAL
- PARK
- VACANT/ AGRICULTURAL

Note : 2 or more assessed residential Units are indicated



**APPENDIX G**  
**Building Department Comments**



**BUILDING  
DEPARTMENT**

**PRELIMINARY REPORT TO PLANNING**

<input type="checkbox"/> MINOR VARIANCE	<input checked="" type="checkbox"/> SEVERANCE
<input type="checkbox"/> DRAFT PLAN OF SUBDIVISION	<input type="checkbox"/> ZONING BYLAW AMENDMENT
<input type="checkbox"/> OFFICIAL PLAN AMENDMENT	<input type="checkbox"/> DRAFT PLAN OF CONDOMINIUM
<input type="checkbox"/> RENTAL HOUSING PROTECTION ACT	<input type="checkbox"/> SITE PLAN CONTROL APPROVAL

APPLICATION / SUBMISSION N<sup>o</sup> ..... **B08-2019**

**SITE:** 84 Lynden Road  
**TO PERMIT:** Long Term Lease  
**APPLICANT:** NADG Ltd.

**COMMENTS:**

BYLAW: 160-90      ZONE: H-C11-4

There are no active permits or orders against this property.

There are no objections to this proposed long term lease.

A handwritten signature in blue ink, appearing to read "Ross Thomson".

Ross Thomson, MAATO, CBCO, CPSO  
Chief Building Official

March 1, 2019  
Date

**APPENDIX H**  
**Engineering Department Comments**

No. B08-2019

**COMMITTEE OF ADJUSTMENT APPLICATION**  
**ENGINEERING SERVICES STAFF REPORT**

HEARING DATE: FEBRUARY 28, 2019  
NAME OF APPLICANT: NADG (LPM) Ltd.; I.G. Investment Management Ltd  
ADDRESS: 84 Lynden Road  
NATURE OF APPLICATION: Consent Application

**ENGINEERING DEPARTMENT REQUIREMENTS:**

1.	Land required for road widening purposes	-	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
2.	Ingress and Egress satisfactory	-	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
3.	Off-street parking satisfactory	-	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
4.	Sanitary sewers available and satisfactory	-	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
5.	Storm sewers available and satisfactory	-	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
6.	Water Service available and satisfactory	-	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

**COMMENTS OR REMARKS:**

1. TRAFFIC/PARKING

- No transportation comments for this application.

T. KU, P.ENG., PTOE  
MANAGER, TRANSPORTATION AND PARKING SERVICES

2. TRANSIT SERVICES

- Transit has no concerns with this application.

E. VANDERMADE  
MANAGER OF TRANSIT

No. B08-2019

COMMITTEE OF ADJUSTMENT APPLICATION  
ENGINEERING SERVICES STAFF REPORT

HEARING DATE: FEBRUARY 28, 2019  
NAME OF APPLICANT: NADG (LPM) Ltd.; I.G. Investment Management Ltd  
ADDRESS: 84 Lynden Road  
NATURE OF APPLICATION: Consent Application

**ENGINEERING DEPARTMENT REQUIREMENTS:**

1.	Land required for road widening purposes	-	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
2.	Ingress and Egress satisfactory	-	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
3.	Off-street parking satisfactory	-	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
4.	Sanitary sewers available and satisfactory	-	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
5.	Storm sewers available and satisfactory	-	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
6.	Water Service available and satisfactory	-	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

**COMMENTS OR REMARKS:**

3. WATER

I reviewed the consent application and site plan with Project No 14166 dated Jan 18, 2019 with no revisions as prepared by Petroff Partnership Architects, on behalf of Environmental Services and have the following conditions:

1. Environmental Services has no concern regarding this application.

J. SPAGNUOLO, C.E.T.,  
SENIOR PROJECT MANAGER

4. DEVELOPMENT ENGINEERING

- No comments.



G. PEEVER, P. ENG.,  
MANAGER, DEVELOPMENT ENGINEERING

February 28, 2019  
DATE



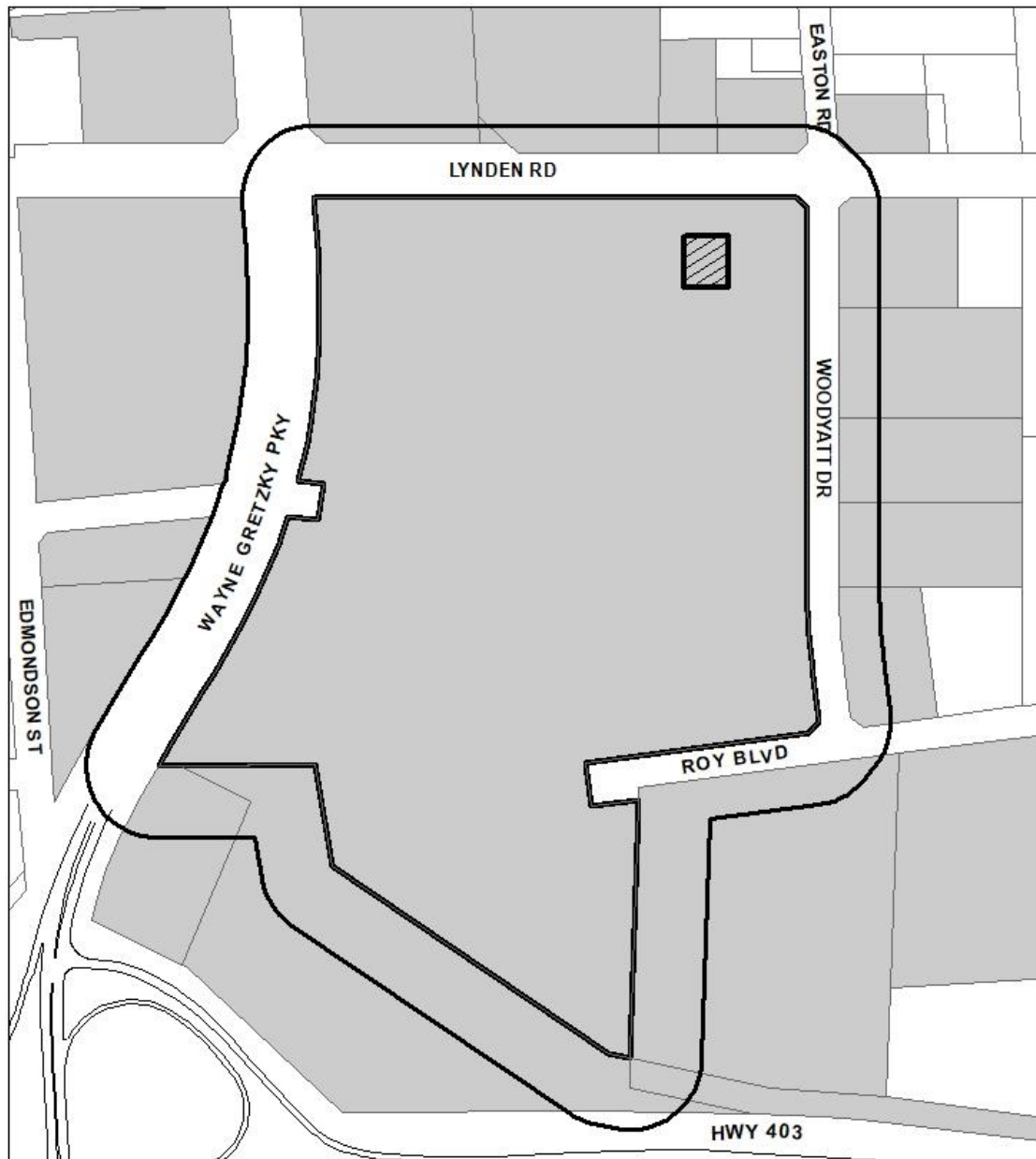
R. LOUKES, P. ENG.,  
DIRECTOR, ENGINEERING SERVICES  
PUBLIC WORKS COMMISSION



**APPENDIX I**  
**Notification Area**

**AREA OF PUBLIC NOTIFICATION**

Application: B08/2019  
84 Lynden Road



**LEGEND**

○ 60m RADIUS from Subject Property

▨ Subject Property

▨ Location of the Long Term Lease Property

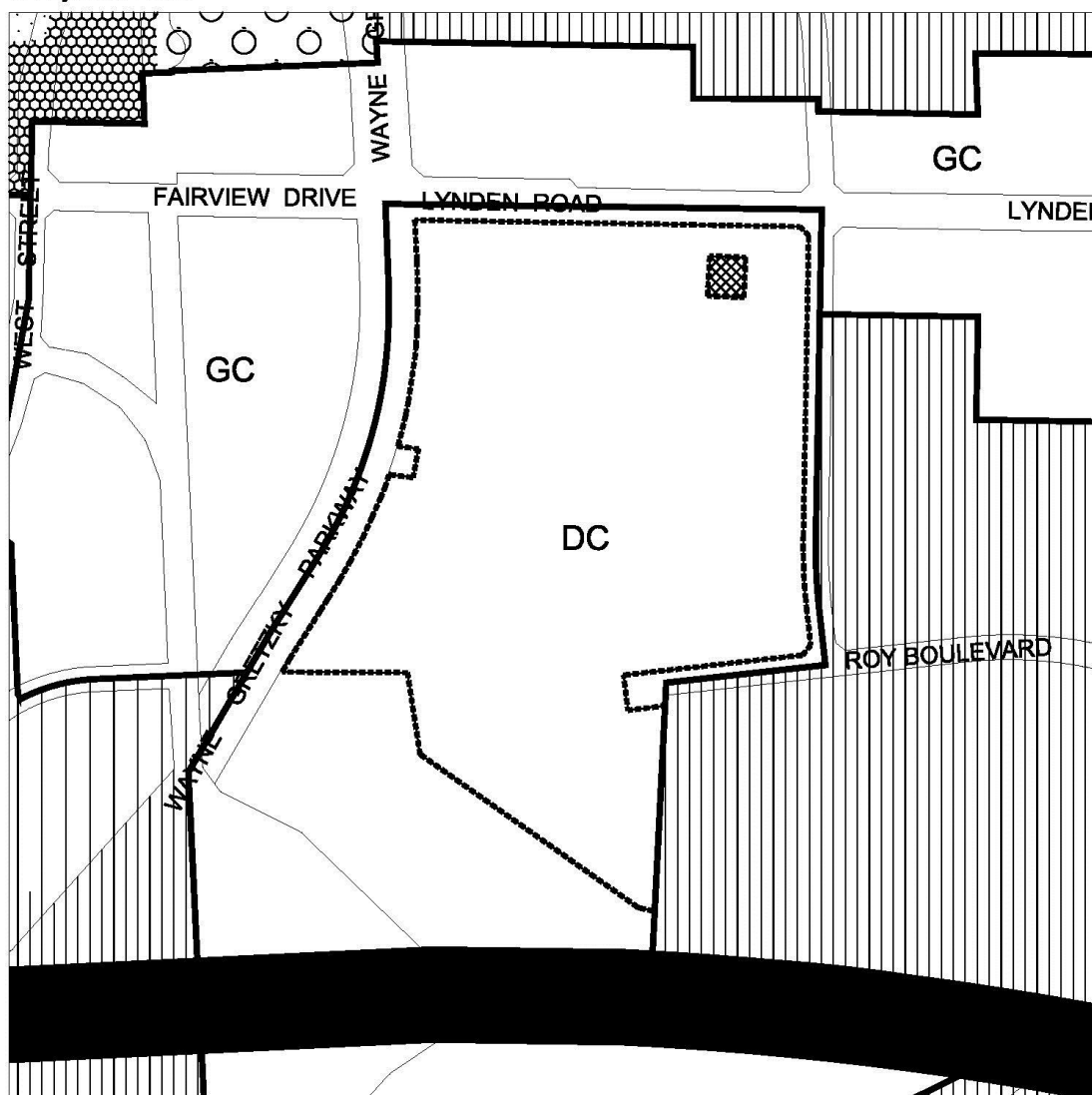
■ Notified Properties



**APPENDIX J**  
**Official Plan**

**OFFICIAL PLAN**

Application: B08/2019  
84 Lynden Road



**LEGEND**

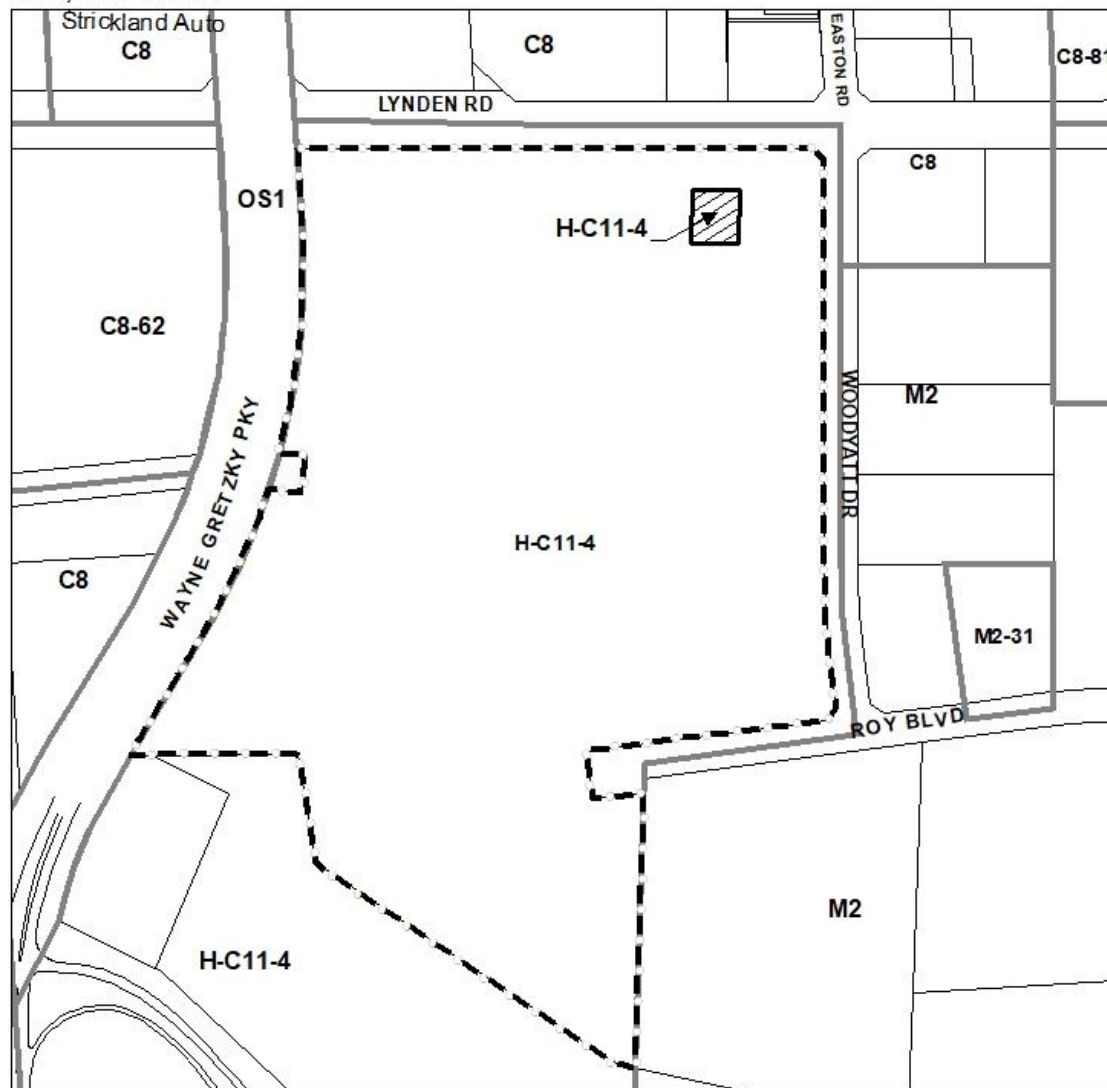
SUBJECT LAND	Location of the Long Term Lease Property	CORE COMMERCIAL AREA	CEMETERY
LOW DENSITY RESIDENTIAL AREA	COMMUNITY CENTRE COMMERCIAL AREA	ELEMENTARY SCHOOL	FREEWAY
MEDIUM DENSITY RESIDENTIAL AREA	GENERAL COMMERCIAL AREA	LONG TERM CORRIDOR PROTECTION	SPECIALIZED PARK and OPEN SPACE
HIGH DENSITY RESIDENTIAL AREA	MIXED COMMERCIAL RESIDENTIAL AREA	COMMUNITY PARK and OPEN SPACE	NEIGHBOURHOOD PARK and OPEN SPACE
GENERAL INDUSTRIAL AREA	DISTRICT CENTRE COMMERCIAL AREA		
MIXED INDUSTRIAL COMMERCIAL AREA	NEIGHBOURHOOD CENTRE COMMERCIAL AREA		
BUSINESS PARK AREA	HIGHWAY COMMERCIAL AREA		
MAJOR INSTITUTIONAL	NEW FORMAT COMMERCIAL AREA		
MAJOR OPEN SPACE			

## APPENDIX K Zoning

### ZONING BY-LAW

Application: B08/2019

84 Lynden Road



#### LEGEND

Subject Property Location of the Long Term Lease Property

ZONING (Bylaw 160-90) and County of Brant(61-16)

ZONE BOUNDARY

C8 GENERAL COMMERCIAL

C11 DISTRICT CENTRE COMMERCIAL

M2 GENERAL INDUSTRIAL

H HOLDING PROVISION

-3 Exception Number

