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Date March 27, 2019 **Report No.** 2019-178

To Chair and Members
City of Brantford Committee of Adjustment

From Alexandra Mathers
Development Planner

1.0 Type of Report

Committee of Adjustment Decision Regarding Application for Minor Variance

2.0 Topic

APPLICATION NO.	A09/2019
APPLICANT/OWNER	Ennio Cupoli
LOCATION	30 Dublin Street

3.0 Recommendation

- A. THAT Application No. A09/2019 seeking relief from Zoning By-law 160-90 for the lands municipally known as 30 Dublin Street to permit a minimum front yard of 4.5 m, whereas 6.0 m is required, and a minimum rear yard of 1.5 m, whereas 7.5 m is required, BE APPROVED:
- B. THAT the reason(s) for approval are as follows:
1. The proposed variances are considered compatible with the surrounding area;
 2. The proposed variances are in keeping with the general intent of the Official Plan and Zoning By-law 160-90; and

3. The requested relief is considered minor in nature and the application complies with the criteria set out in Section 45(1) of the *Planning Act*, and

C. THAT pursuant to Section 45(8) – (8.2) 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 2019-178.”

4.0 Purpose and Description of Application

A minor variance application has been received for the property municipally known as 30 Dublin Street. The subject site is located on the north side of Dublin Street, and southeast of Fulton Street. The property was severed from the property located at 45 Fulton Street in order to create two lots for single-detached residential use on April 25, 2018 (File Nos. B05/2018 and A15/2018, Report No. CD2018-067). The original buildings on the retained parcel at 45 Fulton Street were demolished in November 2018 and a subsequent consent application to further divide the property at 45 Fulton Street was approved in December 2018 (File Nos. B20/2018 and A35/2018, Report No. CD2018-155). A total of three lots were created through applications B05/2018 and B20/2018. A single detached dwelling is currently under construction on the retained parcel at 45 Fulton Street. The two severed parcels, including the subject property at 30 Dublin Street are under Site Plan Control (SPC-06-19). The applicant is currently fulfilling the conditions of consent. In order to facilitate the development of the proposed single-detached dwelling, the applicant is seeking relief from the following sections of the Zoning By-law 160-90:

- Relief from Section 7.4.2.1.5 to permit a minimum front yard of 4.5 m, whereas 6.0 m or the Established Front Building Line is required; and
- Relief from Section 7.4.2.1.6 to permit a minimum rear yard of 1.5 m, whereas 7.5 m is required.

The subject lands are designated “*Low Density Residential*” in the City’s Official Plan and are zoned “Residential Type 1C (12 metre) Zone in Zoning By-law 160-90.

A location map and site plan illustrating the proposed development are attached as **Appendices A** and **B**.

5.0 Site Features

The subject lands are located on the north side of Dublin Street, southeast of Fulton Street, and are located in an established neighbourhood that contains an existing mixture of single-detached dwellings, block townhouses, mid-rise apartments and some institutional uses. St. James Anglican Church abuts the property to the southeast. An aerial photo and site photographs are attached as **Appendices C and D**.

6.0 Input from Other Sources

6.1 Technical Comments

The application was circulated to all appropriate departments and agencies. No adverse comments or objections were received from the commenting agencies. Development Engineering Staff have advised that the applicant must provide confirmation that drainage from the rear yard swales as it relates to the proposed building does not impact adjacent properties and must also confirm that the existing Bell boxes at the eastern corner of the subject lands are not impacted. The lands are subject to a Site Plan Control application (File No. SPC-06-19) this comment is consistent with that Development Engineering review also. An updated grading plan will be a requirement through the Site Plan Control process. The updated grading plan will need to confirm that the grading and drainage can be appropriately addressed to the satisfaction of Development Engineering Staff. The applicant has advised that the proposed plans are being prepared and Staff further advise that Development Engineering concerns must be addressed according to good engineering practice, and also acknowledge that the engineering requirements may impact the overall building layout and design in order to achieve this. Comments from the Water department indicate that their concerns will be addressed through the Site Plan Control process. Detailed comments from the Building and Engineering Departments are attached as **Appendices E and F**.

6.2 Public Response

Notice of public hearing was issued by personal mail (32 notices) and by posting a sign on the subject site. Attached as **Appendix G** is a plan illustrating the notification area. One member of the public reached out for further information regarding the site. No adverse comments or objections were received from the public.

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* sets the standard to which provincial and local interests, policies and goals are implemented. Minor variance applications must be evaluated in the context of Section 45(1) of the *Planning Act*. When evaluating the merits of a minor variance application, the Committee of Adjustment must be satisfied that the four tests of Section 45 (1) have been met. If any one of the four tests is not satisfied, then the application cannot be approved. To be approved, a minor variance must be minor in nature, desirable for the appropriate development and use of the land, and the general intent and purpose of the Zoning By-law and Official Plan must be maintained.

Planning Staff are of the opinion that the subject minor variance application is consistent with Section 45(1) of the *Planning Act*.

7.2 Provincial Policy Statement

The subject minor variance 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.

The PPS encourages “*an appropriate range and mix of residential (including second units, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemetery and long-term care homes), recreation and park and open space, and other uses to meet long-term needs.*”

Planning Staff is of the opinion that the proposed minor variance is consistent with the direction set out in the PPS.

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

The subject minor variance 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 principles that provide the basis for guiding decisions in the GGH on how land is developed, resources are managed and protected, and public capital is invested. These principles include the following:

- Support the achievement of complete communities that are designed to support healthy and active living and meet people's needs for daily living throughout an entire lifetime.
- Prioritize intensification and higher densities to make efficient use of land and infrastructure and support transit viability.

Planning Staff are of the opinion that the proposed minor variance conforms to the Growth Plan.

7.4 City of Brantford Official Plan

The subject lands are designated "*Residential Area – Low Density*" in the City's Official Plan (**Appendix H**). This designation is intended to provide a variety of lot and dwelling unit sizes shall be provided within these designations, in order to reflect the spacious, open character usually associated with low density residential development. Single detached, semi-detached, duplex and triplex dwellings are permitted in this designation.

Section 5.2.3 of the Official Plan states that "*the infilling of existing residential areas through development of vacant lands and redevelopment of existing residences will be an important component of the City's future housing stock*". It is the policy of the City to encourage residential infilling where feasible and appropriate.

Further, Section 18.11.2 of the Official Plan addresses minor variances and states that "*The Committee of Adjustment will consider applications for minor variances on the basis of conformity to the following or other criteria:*

1. *The applicant cannot acquire additional property to comply with the minimum requirements of the Zoning Bylaw;*

2. *Adequate provision is made for vehicular access and off-street parking on the lot;*
3. *Building coverage is not excessive and adequate landscaping can be provided on the lot;*
4. *The lot size and design of the proposed building or structure are in keeping with adjacent development and the general intent of the provisions in the Zoning Bylaw.”*

The property at 30 Dublin Street was created through severance on April 25, 2018, and is currently vacant (File Nos. B05/2018 and A15/2018, Report No. CD2018-067). It is Planning Staff’s opinion that the proposed new single detached dwelling will make use of an underutilized lot.

It is Planning Staff’s opinion that the proposed minor variance conforms with the policies of Section 18.11.2 of the Official Plan, as the proposed variance will not impact vehicular access and the required off-street parking space will be provided in the proposed garage; the total building coverage for the lot does not exceed what is permitted in the Zoning By-law; the proposed front yard is in keeping with character of the neighbourhood; and the general intent of the Zoning By-law is maintained.

It is Planning Staff’s opinion that the proposed minor variances maintain the general intent and purpose of the City’s Official Plan.

7.5 City of Brantford Zoning By-law 160-90

The subject lands are zoned “Residential Type 1C Zone (R1C)” in Zoning By-law 160-90 (**Appendix I**). The proposed development requires relief from the minimum front and rear yards provisions. A minor variance seeking relief for the lot area of 309.93 m² was approved on April 25, 2018 (Application No. A15/2018, Report No. CD2018-067). A single detached dwelling unit is a permitted use within the R1C Zone.

In order to facilitate the development as proposed, the minor variance application requests relief from the following provisions of Zoning By-law 160-90:

1. Relief from Section 7.4.2.1.5 to permit a minimum front yard of 4.5 m, whereas 6.0 m or the Established Front Building Line is required; and
2. Relief from Section 7.4.2.1.6 to permit a minimum rear yard of 1.5 m, whereas 7.5 m is required.

The applicant has requested that the proposed single detached dwelling be located 4.5 m from the front lot line. In the R1C Zone, a minimum front yard is required to be either 6.0 m or from the Established Front Building Line. The abutting property to the southeast (St. James Anglican Church) has an existing side yard which functions as its main entrance and façade of the church, and has a side yard of 3.6 m. While the abutting property's side yard is not considered as the Established Front Building Line, the proposed single detached dwelling at 30 Dublin Street will be setback an additional 1.1 m from the existing setback along the north side of Dublin Street between Fulton Street and Grand Street. Further, similar front yards exist along the north side of Dublin Street, and in the immediate neighbourhood along Fulton and Grand Streets. The applicant was made aware that, if approved, the minor variance will limit the ability for additional parking on the driveway. In Planning Staff's opinion the proposed front yard variance will maintain the streetscape character along Dublin Street and the immediate area.

The second variance seeks relief to permit a minimum 1.5 m rear yard, whereas 7.5 m is required. The proposed single detached dwelling is to be located 1.5 m from the rear lot line. The minimum rear yard provision in the Zoning By-law is intended to provide an amenity space for the dwelling unit and reduce the impact of the building on adjacent properties. In this current proposal, adequate amenity space can be provided in the side yard and will function as amenity space for the dwelling unit. This property is subject to Site Plan Control and there is a current application with the City (Application No. SPC-06-19). If the application for minor variance is approved, there is potential that the future building layout and elevations could be modified through the Site Plan Control process in order to ensure that the proposed dwelling unit is constructed in a manner that will utilize the side yard as a functioning amenity space and address engineering comments related to grading and drainage. Further, Planning Staff are of the opinion that the proposed rear yard setback between 30 Dublin Street and the property to the north (47 Fulton Street), will not impact privacy or create overlook concerns as the property at 47 Fulton Street has a deep lot with the single detached dwelling located at the front of the lot. It is Planning Staff's opinion that the proposed reduction to the rear yard will not negatively impact the adjacent properties as the proposed development is being reviewed through the Site Plan Control process to address matters related to grading, drainage, building layout and elevations. The proposed single detached dwelling meets all other requirements of the R1C Zone.

Planning Staff are of the opinion that the minor variances meet the intent of the Zoning By-law.

7.6 Conclusion

A site visit was conducted on March 14, 2019. Upon completion of this visit and review of the applicable policies, Planning Staff are supportive of the application. The minor variances, as proposed represents good land use planning that is encouraged by the PPS, Growth Plan, and Official Plan.

The variances satisfy the criteria of Section 45(1) of the *Planning Act*. The proposed variances are desirable for the appropriate development and use of the land and seen as minor in nature. The proposed minimum front yard is similar to those already existing in the neighbourhood and is consistent with the character of the neighbourhood and will not impact the required off-street parking requirement. The proposed design of the property will still permit adequate amenity space on the property in the side yard and will not negatively impact the abutting properties. The Development Engineering and Water Services comments will be addressed through the Site Plan Control process. Lastly, the minor variances are in keeping with the general intent of the Official Plan and Zoning By-law 160-90. Staff recommend that Application No. A09/2019 be approved.



Prepared by:
Alexandra Mathers, MSc.Pl.
Development Planner
Prepared on: March 21, 2019



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


Appendix A – Location Map

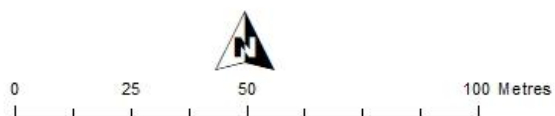
LOCATION MAP

Application: A09/2019
30 Dublin Street



Legend

 Subject Property

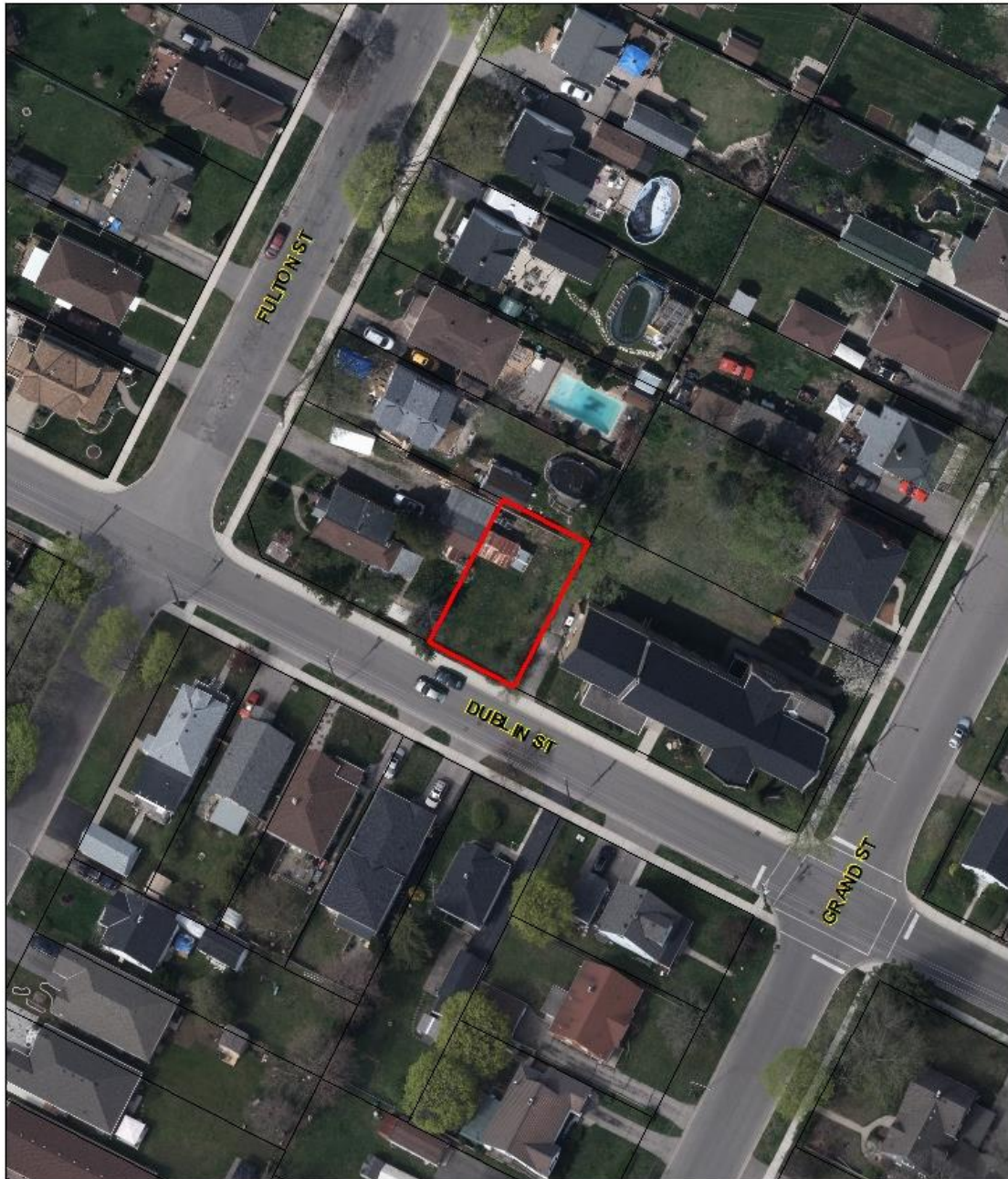


[illegible]


Appendix C – Aerial Photo

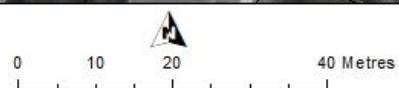
AERIAL PHOTO (2017)

Application: A09/2019
30 Dublin Street



LEGEND

 Subject Property



Appendix D – Site Photo



Image 1: Photo of the vacant lot at 30 Dublin Street.

Appendix E- Building Department Comments



BUILDING DEPARTMENT

PRELIMINARY REPORT TO PLANNING

<input checked="" type="checkbox"/> MINOR VARIANCE	<input 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^o A07-2019

SITE: **30 Dublin Street**
TO PERMIT: **Reduced rear yard setback**
APPLICANT: **Ennio Cupoli**

COMMENTS:

BYLAW: 160-90 ZONE: RIC

The applicant is proposed a reduce rear yard setback of 1.5m whereas 7.5m is required.

The proposal appears to have a front yard setback of the established front building line. These calculations shall be provided by the applicant to ensure an additional variance for the front yard setback in not required.

There are no active permits or orders against these properties.

There are no objections to this proposed variance. The proposal appears to comply with the remaining regulations for the zone.

A handwritten signature in black ink, appearing to read "Russ Thomson".

Russ Thomson, MAAFO, CBCO, CPSO
Chief Building Official

March 1, 2019
Date

Appendix F – Engineering Department Comments

No. A09/2019

COMMITTEE OF ADJUSTMENT APPLICATION ENGINEERING SERVICES STAFF REPORT

HEARING DATE: FEBRUARY 28, 2019
NAME OF APPLICANT / AGENT: 1121317 Ontario Ltd. c/o Ennio Cupoli
ADDRESS: 30 Dublin Street
NATURE OF APPLICATION: Minor Variance 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 comment on this minor variance application.

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

2. TRANSIT SERVICES

- No issues.

E. VANDERMADE
MANAGER OF TRANSIT

Appendix F – Engineering Comments Continued

No. A09/2019

COMMITTEE OF ADJUSTMENT APPLICATION ENGINEERING SERVICES STAFF REPORT

HEARING DATE: FEBRUARY 28, 2019
NAME OF APPLICANT / AGENT: 1121317 Ontario Ltd. c/o Ennio Cupoli
ADDRESS: 30 Dublin Street
NATURE OF APPLICATION: Minor Variance 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 checked="" 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 minor variance application—as prepared by Ennio Cupoli—on behalf of Environmental Services and have no water comments. Technical comments regarding the water servicing to this development will be provided through Site Plan Control Application – SPC-06-2019.

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

4. DEVELOPMENT ENGINEERING

- Bell Boxes located in the eastern corner should be protected and drainage swales should be located 0.3m away from these structures. Confirmation of grading and the ability to get rainwater out to Dublin Street without modifying building location should be confirmed.
- It will have to be demonstrated on the provided grading plan that drainage from the rear yard swales can be achieved.



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

March 13, 2019
DATE



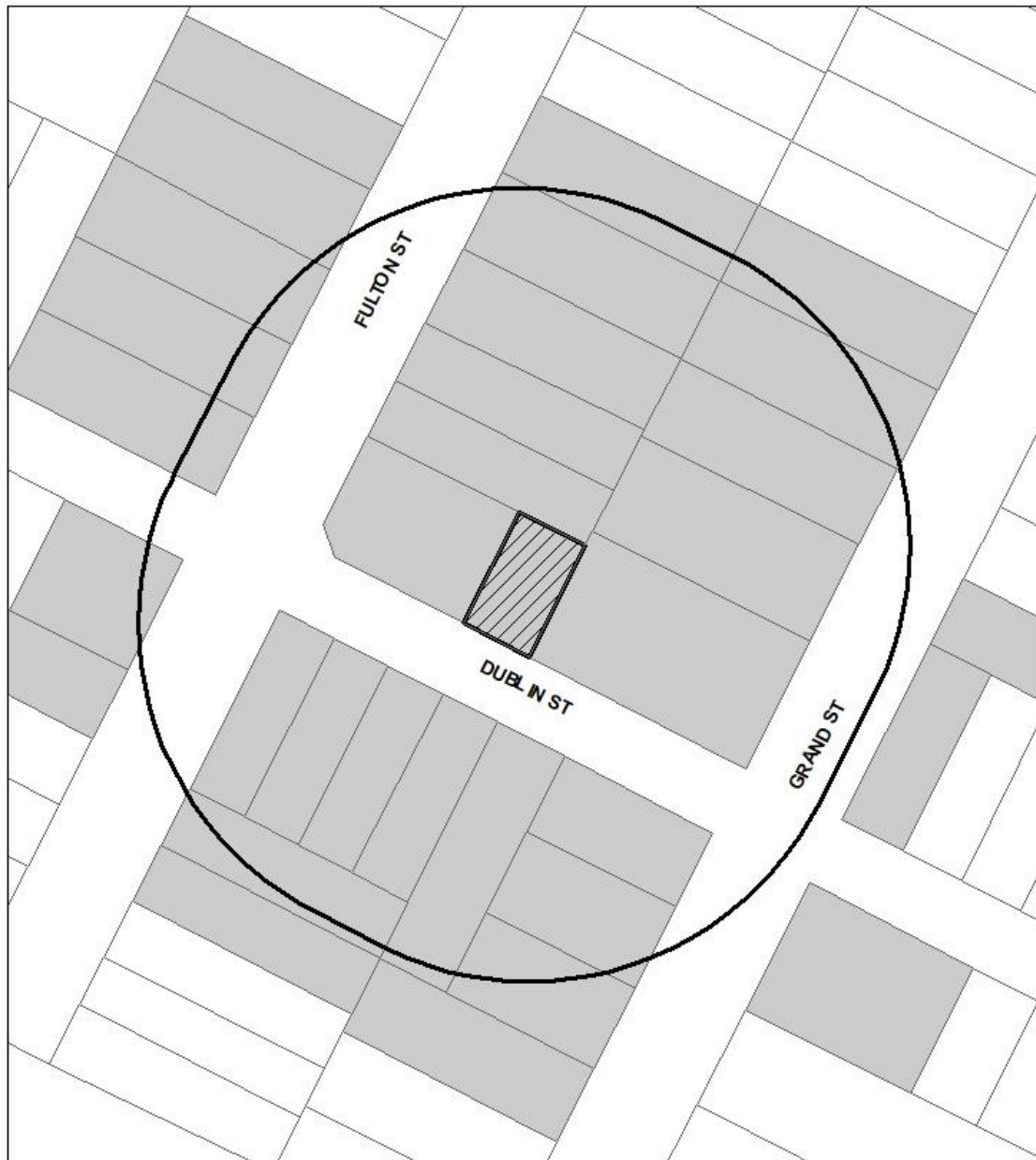
R. LOUKES, P. ENG.,
DIRECTOR, ENGINEERING SERVICES
PUBLIC WORKS COMMISSION

Appendix G – Notification Area




AREA OF PUBLIC NOTIFICATION

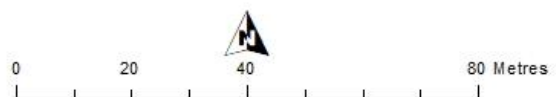
Application: A09/2019

30 Dublin Street



LEGEND

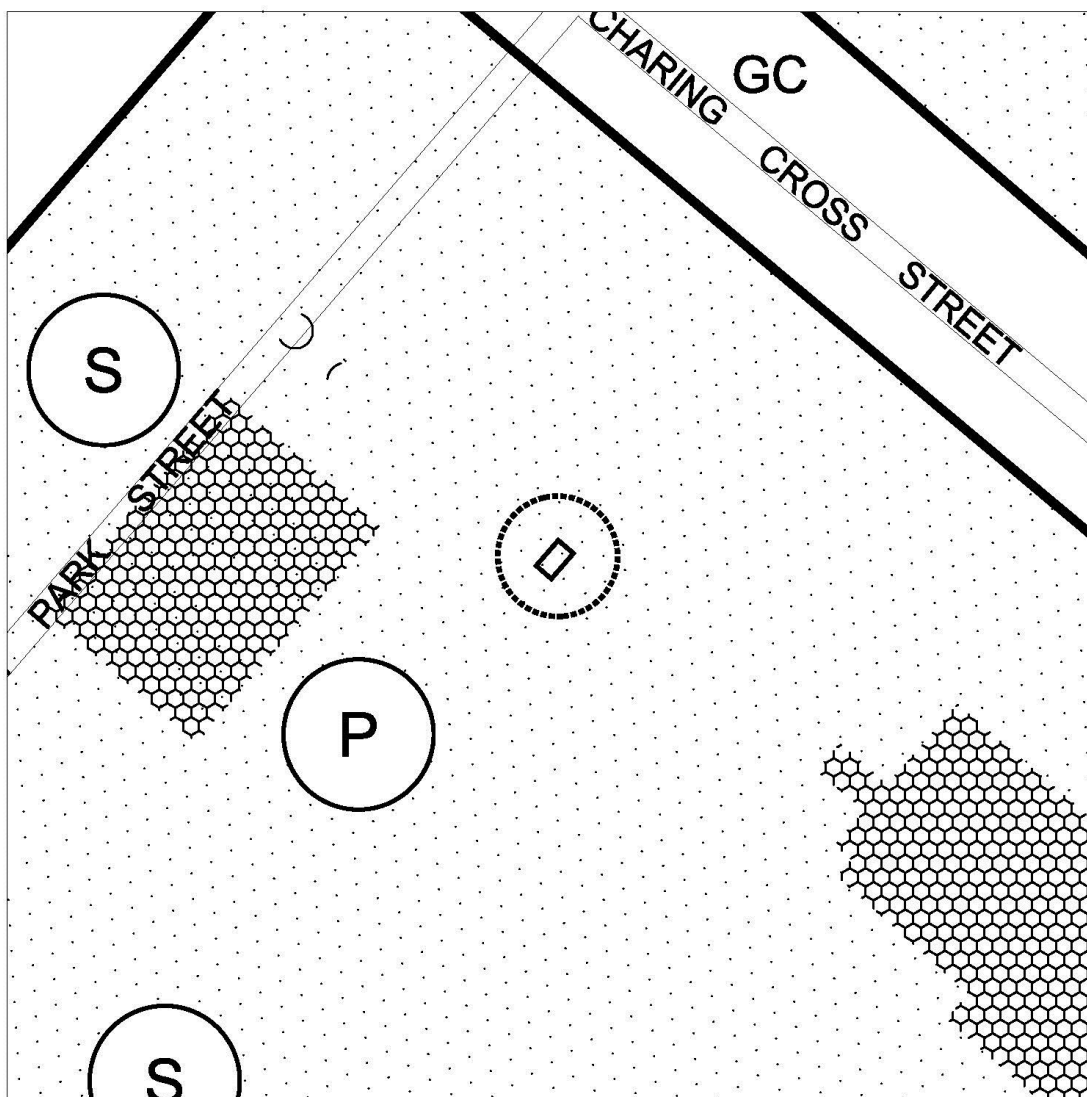
-  60m RADIUS from Subject Property
-  Subject Property
-  Notified Properties



Appendix H – Official Plan

OFFICIAL PLAN

Application: A09/2019
30 Dublin Street



LEGEND

SUBJECT LAND

- LOW DENSITY RESIDENTIAL AREA
- MEDIUM DENSITY RESIDENTIAL AREA
- HIGH DENSITY RESIDENTIAL AREA
- GENERAL INDUSTRIAL AREA
- MIXED INDUSTRIAL COMMERCIAL AREA
- BUSINESS PARK AREA
- MAJOR INSTITUTIONAL
- MAJOR OPEN SPACE

- CORE COMMERCIAL AREA
- COMMUNITY CENTRE COMMERCIAL AREA
- GENERAL COMMERCIAL AREA
- MIXED COMMERCIAL RESIDENTIAL AREA
- DISTRICT CENTRE COMMERCIAL AREA
- NEIGHBOURHOOD CENTRE COMMERCIAL AREA
- HIGHWAY COMMERCIAL AREA
- NEW FORMAT COMMERCIAL AREA

- CEMETERY
- ELEMENTARY SCHOOL
- FREEWAY
- LONG TERM CORRIDOR PROTECTION
- SPECIALIZED PARK and OPEN SPACE
- COMMUNITY PARK and OPEN SPACE
- NEIGHBOURHOOD PARK and OPEN SPACE

Appendix K – Zoning

ZONING BY-LAW

Application: A09/2019

30 Dublin Street



LEGEND

Subject Property

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

ZONE BOUNDARY

R1C RESIDENTIAL Type 1C (12 metre)

R4B RESIDENTIAL MEDIUM DENSITY Type B

RCD RESIDENTIAL CLUSTER DWELLINGS

I2 INSTITUTIONAL SCHOOL

OS1 OPEN SPACE Type 1

-3 Exception Number

