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Date October 4, 2023 **Report No.** 2023-594

To Chair and Members
City of Brantford Committee of Adjustment

From Sarah Hague
Development Planner

1.0 Type of Report

Committee of Adjustment Decision Regarding Application for Consent

2.0 Topic

Application No. B35/2023

Agent/Applicant Corbett Land Strategies Inc. c/o Alicia Monteith and Nick Wood

Owner LIV Developments, LTD

Location 91 Birkett Lane

3.0 Recommendation

- A. THAT Application B35/2023 to sever a parcel of land from the southwestern portion of the lands municipally addressed as 91 Birkett Lane, having a lot area of 21,438 m², and to retain a parcel of land having a lot area of 56,619 m², BE APPROVED, subject to the conditions attached in **Appendix A** to Report 2023-54;
- 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, specifically Section 9.3 (g – i) of the Official Plan respecting consent applications within the City of Brantford and is 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. 2023-594.”

4.0 Purpose and Description of Application

A consent (lot addition and easement) application has been received for the lands municipally addressed as 91 Birkett Lane. The applicant is proposing to sever the southern portion of the property (5.3 ac), to be added to 101 Birkett Lane for the future development of those lands (**Figure 1**). These parcels are also subject to zoning and plan of subdivision applications for the future development referred to as Riverwalk. The Zoning By-law Amendment was passed by Council in August 2023 but the Draft Plan of Subdivision application is to be dealt with at a later date as the transfer of the (severed) lands from LIV Developments to Cachet Developments (benefiting abutting land owner) is required to facilitate the subdivision application and requisite list of future draft plan conditions. The retained lands are Riverwalk Phase 4 (PZ-14-21, 29T-21503) and the severed and receiving lands are Riverwalk Phases 2 & 3 (PZ-19-21, 29T-21505 and PZ-20-21, 29T-21506). The blanket easement is proposed to be over the severed parcel, in favour of the retained parcel, for the purposes of access, ingress, egress, and servicing. This will allow for the retained lands to continue to have access while simultaneously facilitating the lot addition which is required for the Draft Plan of Subdivision to advance.

The proposed lot dimensions are as follows:

	Lands to be Retained	Lands to be Severed
Lot Frontage	N/A (easement for access)	113 m
Lot Area	56,619 m ²	21,438 m ²
Proposed use	Riverwalk Phase 4	Riverwalk Phase 3

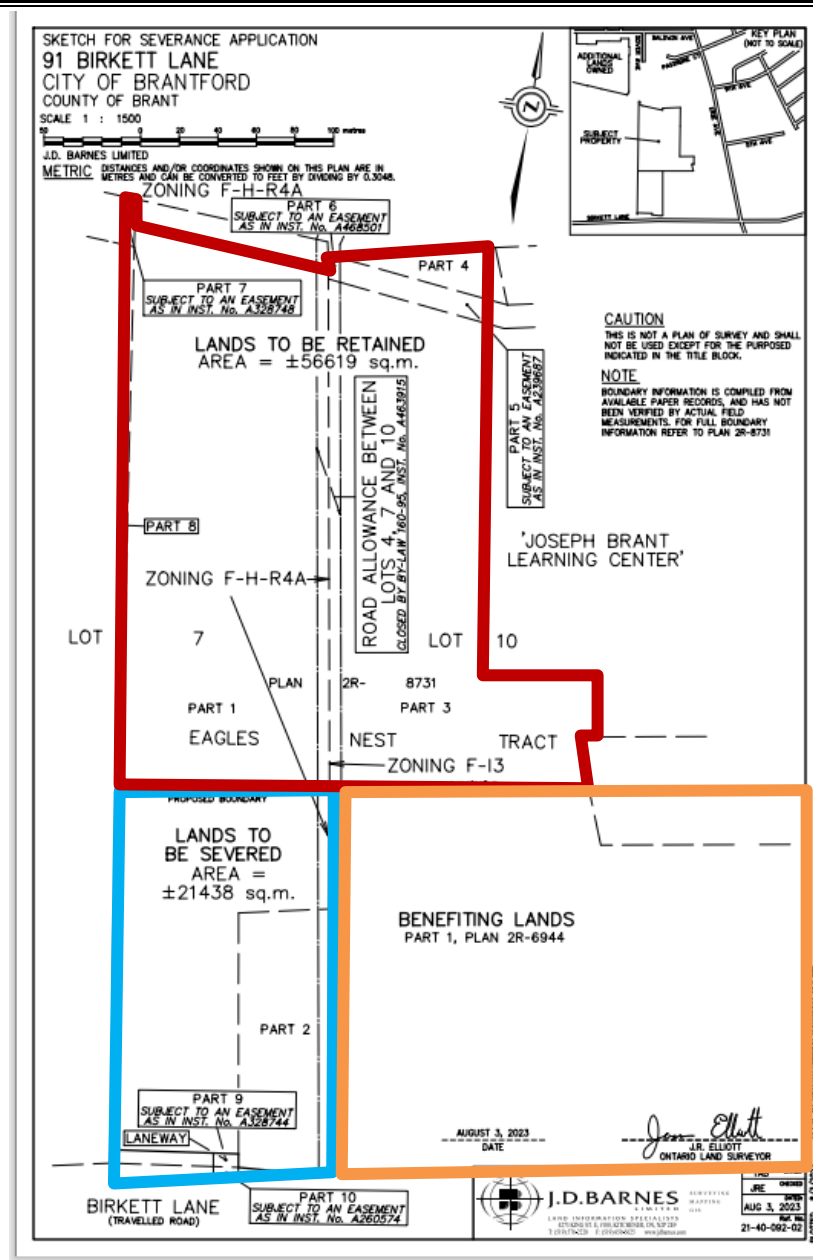


Figure 1 - Severance Sketch

5.0 Site Features

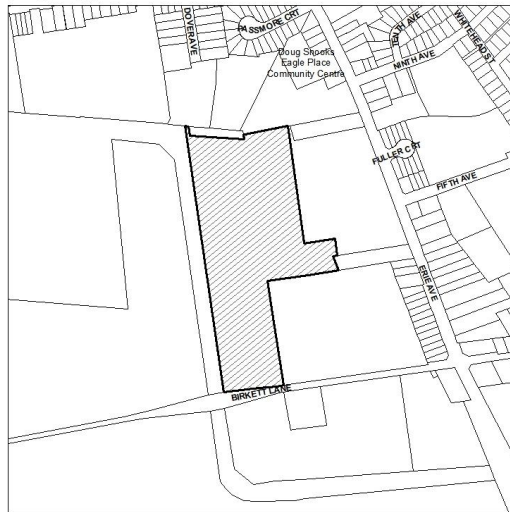
The Subject Lands are located on the north side of Birkett Lane, west of Erie Avenue. The lands have a total site area of approximately 7.8 hectares (19.3 acres) with a street frontage of approximately 113 m fronting Birkett Lane and a lot depth of approximately 504 m. The lands have no existing structures, and is currently a cash crop (corn) field, overgrown trees, and tree groupings. The Subject Lands are currently used for agricultural uses.

The immediate surrounding uses are characterized by existing low-rise residential and institutional uses located at the north and east side, and agricultural uses at the west and south side of the Subject Lands.

To the north of the Subject Lands are a greenfield and wooded area, Doug Snooks Eagle Plan Community Centre, Bellview Public School and existing low-rise residential beyond. To the east of the Subject Lands are existing low-rise residential uses. To the south of the Subject Lands are agricultural fields, Birkett Lane, and future residential development, and to the west of the Subject Lands are the Hamilton-Brantford Rail Trail, and agricultural lands. A location map, aerial photo, and site photographs are included below:

LOCATION MAP

Application: B35/2023
91 Birkett Lane



Legend

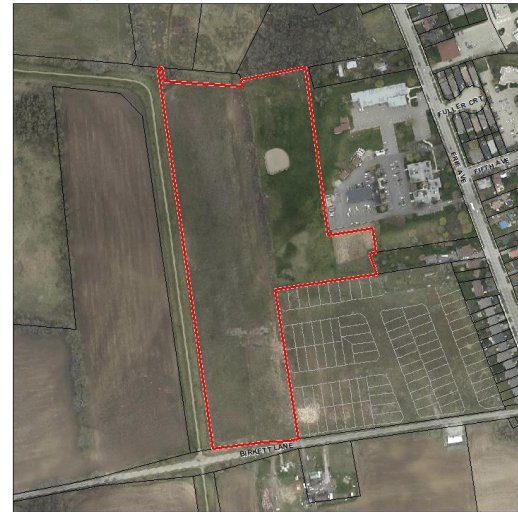
SUBJECT LAND



Figure 2 - Location Map

AERIAL PHOTO

Application: B35/2023
91 Birkett Lane



Legend

Subject Land

Aerial Photo from spring 2021



Figure 3 - Aerial Photo



Figure 4 - Photo of the Subject Lands from the frontage of 91 Birkett Lane

6.0 Input from Other Sources

6.1 Technical Comments

The application was circulated to all applicable departments and agencies. No adverse comments or objections were received from the commenting agencies. Conditions of approval have been requested by the Transportation and Development Engineering Departments. These conditions are included in **Appendix A**. A summary of the comments is provided below:

Table 1 - Department and Agency Comments

Agency Name	Agency Comment
Building Department	"H" prefix required to be removed prior to construction.
	The proposed site will require a minimum lot width as per 7.9.2.1.2. If the severance is granted the site will not have any street frontage and therefore will not meet the minimum lot width. See definition of lot width in Brantford Zoning By-Law No. 160-90.
	Any proposed construction will require that a building permit be applied for and approved through this department. Development charges may be applicable to any new development.
Environmental Services	No comments

Agency Name	Agency Comment
Development Engineering	A Site Alteration Permit will be required for any changes/modifications made to the site as defined by the Site Alteration By-Law 29-2023. This Permit is administered by the City's Development Engineering Department.
	A Right of Way Activity Permit will be required for any access/driveway activity, any proposed excavation activity within the Right of Way and any occupancy activity within the Right of Way. This Permit is administered by the City's Operational Services Department.
	A Sanitary Lateral Connection Permit will be required for any proposed sanitary service connections. This Permit is administered by the City's Development Engineering Department.
	A Water Connection Permit will be required for any proposed water service connections. This Permit is administered by the City's Environmental Services Department.
	Full public services are to be constructed, or replaced if damaged (sidewalk, boulevards, driveway approaches, noise barrier, etc.)
Landscaping	No comments
Source Water Protection	We have completed the Source Water Protection notice to proceed for the 91 & 101 Birkett Lane – Phase 4 application.
Transportation	Birkett Lane is identified in the Official Plan for a road widening to an ultimate right-of-way (ROW) width of 24.5 meters, however due to right-of-way limitations, only a 20.0 metre right-of-way is being pursued.
MTO	No requirements
Hydro One	No comments or concerns
County of Brant	No comments

6.2 Public Response

Notice of public hearing was issued by personal mail (10 notices) and by posting a sign on-site. At the time of writing this Report, no comments have been received in regards to this consent application. Further, no residents or land owners attended the public meeting for the applications that went before Planning Committee on August 17, 2023. A map of the area of notification is included below.

AREA OF PUBLIC NOTIFICATION

Application: B35/2023
91 Birckett Lane

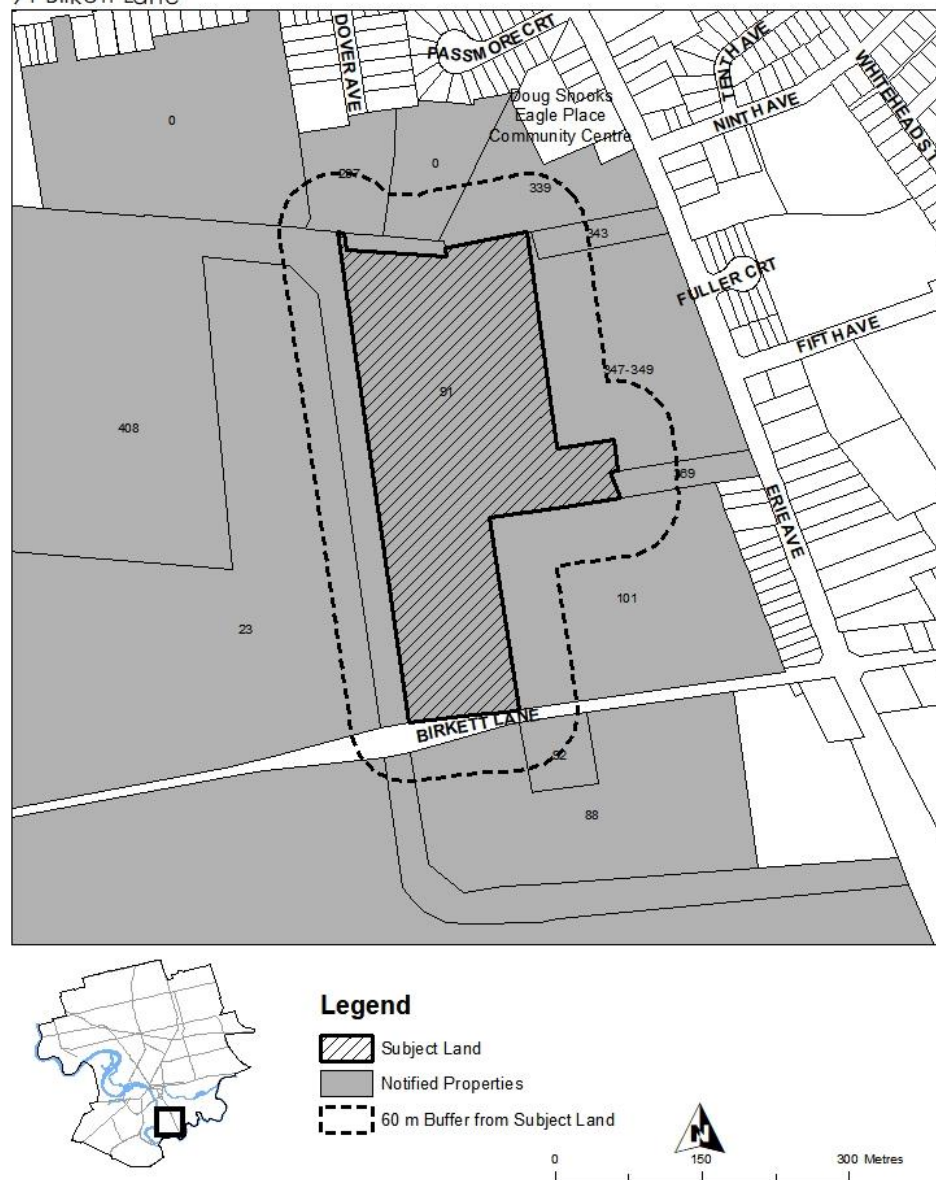


Figure 5 - Area of Public Notification

7.0 Planning Staff Comments and Conclusion

7.1 Policy Context

This application was reviewed in the context of the Provincial Policy Statement, the Growth Plan, the Official Plan and the Zoning By-law. A summary of conformity to these policies is provided in the table below:

Table 2 - Policy Context and Conformity

Document	Relevant Policy	Conformity
Provincial Policy Statement (PPS) (2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan)	These policies set the standard to which provincial and local interests, policies and goals are implemented. The PPS outlines that Ontario's long term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns. The Growth Plan outlines the principals that provide the basis of guiding decisions in the Greater Golden Horseshoe on how land is developed, resources are managed and protected, and public dollars are invested.	Planning Staff is of the opinion that the proposed consent for lot addition is consistent with the direction set out in the PPS as it promotes the efficient land use and conforms to the Growth Plan.
City of Brantford Official Plan (Envisioning Our City: 2051)	The subject lands are designated "Residential" on Schedule 3 of the Official Plan (Appendix B). The "Residential" designation permits a full range of residential dwelling types, as well as supporting land uses intended to serve local residents.	The subject application conforms to the policies set out in the Official Plan as it will help facilitate the future residential development of underutilized lands in the City of Brantford.
City of Brantford Zoning By-law 160-90	The subject lands are currently zoned "Floodplain – Holding – Residential Medium Density Type A (F-H-R4A) Zone" and "Floodplain – Institutional Major (F-I3) Zone" in Zoning By-law 160-90. On August 29, 2023, Brantford City Council passed a By-law No. 150-2023, to amend the Zoning By-law for the severed and benefitting lands. The severed lands have been rezoned to F-H-R1D-14 and F-H-R4A-88 (Figure 5). Once the Holding is removed, the R4A Zone will permit a range of medium density residential dwelling types including double duplexes, fourplexes, and street and block townhouse dwellings, the R1D-14 Zone will permit single-detached, semi-detached, duplex, triplex, and street townhouse dwellings (with a maximum of 3 units), and the R4A-88 Zone will permit block townhouse, back-to-back townhouse, and stacked townhouse dwellings.	The retained, severed, and benefitting lands will continue to satisfy the zoning requirements of their respective Zones of Zoning By-law 160-90.

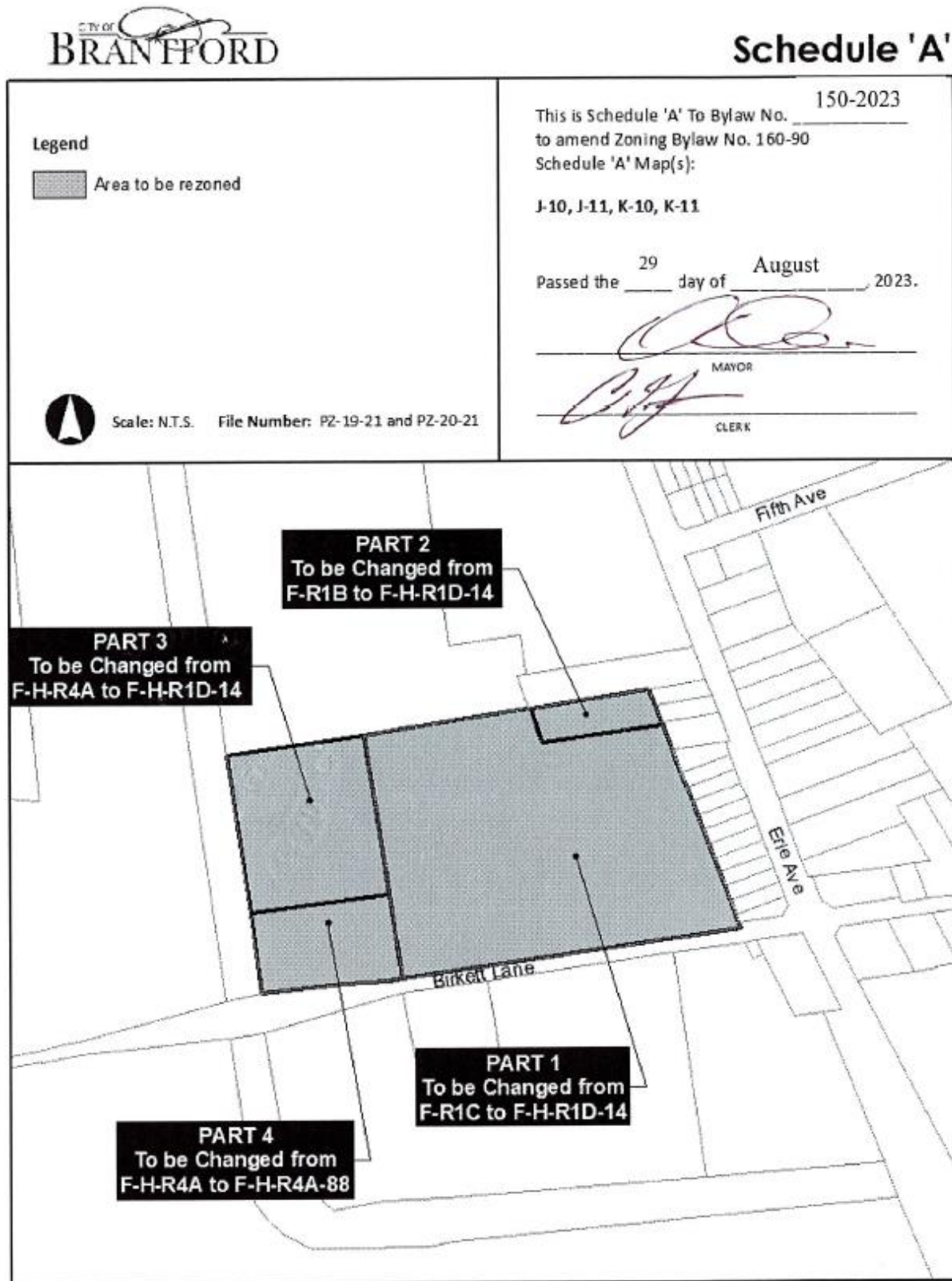


Figure 6 - Newly Passed Zoning Amendment for the Severed and Benefitting Lands

7.2 Planning Analysis

The *Planning Act* sets the standard to which provincial and local interests, policies and goals are implemented. Section 51 (24) of the *Planning Act* lists the criteria that the Committee of Adjustment must have regard for when considering a consent application for approval. These criteria include: if the plan conforms to the Official Plan, the dimensions and shapes of the proposed lot, and the adequacy of utilities and municipal services. Section 9.3 (g – i) of the Official Plan also lists criteria for the subdivision of land and stipulates when consents are appropriate.

Table 3 - Conformity of Application with Applicable Criteria

Criteria for Considering a Consent Application	Discussion
1. That the plan conforms to the Official Plan	The proposed consent application is for the purpose of creating a new residential lot for future development.
	The Official Plan encourages a wide range of housing types to accommodate the anticipated population. Section 3.1(d) of the Official Plan promotes the supply of new affordable housing in a variety of locations, dwelling types and tenures.
	Section 9.3 (g – i) of the Official Plan also outlines criteria for the subdivision of land and stipulates when consents are appropriate which includes: a) when a Plan of Subdivision is deemed unnecessary and where the application conforms to the policies of the Official Plan, b) no more than three new lots are being created; and c) all lots have frontage on a municipal road and do not require that municipal services be extended
	This application will help facilitate the ongoing Draft Plan of Subdivision applications for the retained and benefitting lands. As the application is for a lot addition, no new lots are being created at this time. The lands are being developed comprehensively in phases, which will include the creation of new roads which will provide frontage for the retained lands and beyond in addition to the frontage on Birkett Lane for the severed and benefitting lands and the blanket easement for access over the severed lands in favour of the retained lands.
2. The dimensions and shapes of the	The retained and severed/benefitting lands are both large enough to accommodate the planned residential developments and meet

proposed lot	the minimum lot sizes required in Zoning By-law 160-90. Both properties will be further subdivided through Subdivision Control.
3. The adequacy of utilities and municipal services	The severed parcel will continue to have frontage on a municipal roadway and have access to municipal services and utilities, which will be extended to the retained lands through a blanket easement.

Additionally, the applicant has applied for a blanket easement over the severed parcel in favour of the retained parcel for the purpose of access, ingress, egress, and servicing. This easement will allow the sites to continue to function cohesively during development of the lands within this proposed neighbourhood as envisioned and planned through a comprehensive process. All detailed matters related to development will be addressed through the Draft Plan of Subdivision and the requisite/applicable list of conditions of approval.

7.3 Conclusion

A site inspection was completed on August 24, 2023. Upon completion of this visit and review of all relevant policies, Planning Staff are supportive of the application. 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 will contribute to a broad range of housing options in Brantford in accordance with the applicable planning policy framework in the PPS, Growth Plan, and Official Plan.



Prepared by: Joe Muto, RPP, MCIP
Manager of Development Planning
Prepared on: September 28, 2023

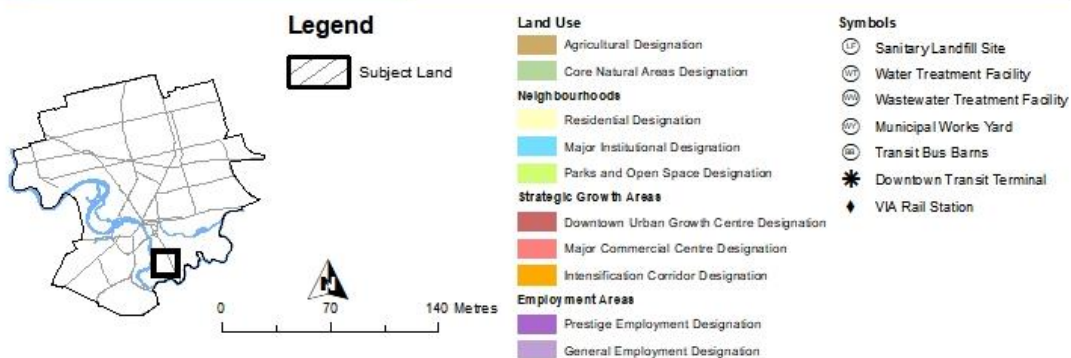
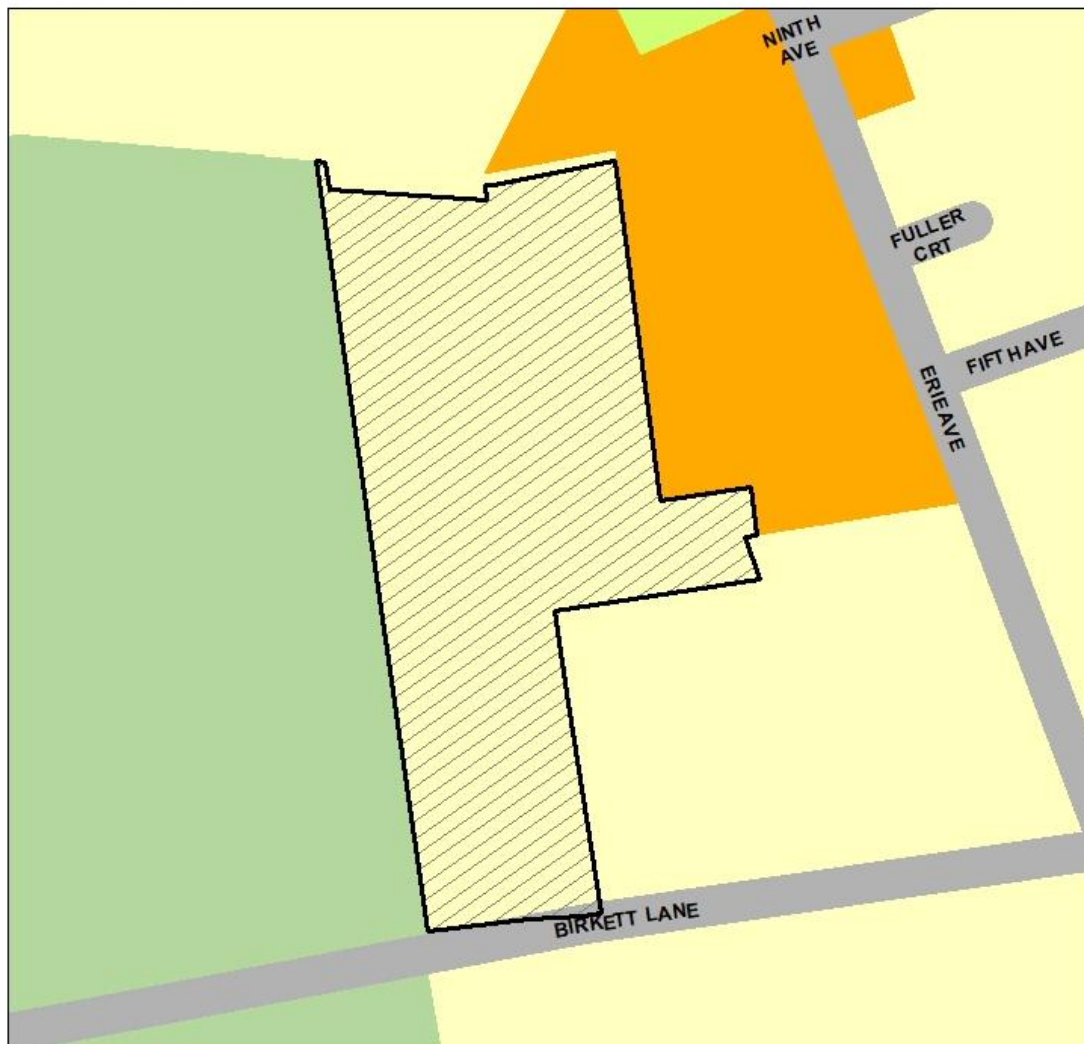
Appendix A – Conditions

1. Receipt of a registered reference plan showing the severed, retained and receiving lands and easement.
2. Receipt of confirmation that all taxes are paid up to date.
3. Receipt of confirmation that the Applicant shall submit to the Secretary-Treasurer a draft of the Transfer deed for review (*Upon registration a final copy of the Transfer deed shall be provided to the City*).
4. Receipt of confirmation that the Applicant shall submit to the Secretary-Treasurer a draft of the Transfer Easement documentation for review (*Upon registration a final copy of the Transfer deed shall be provided to the City*);
5. The Owner/Applicant shall provide a Servicing Plan prepared by a qualified Engineer licensed in the Province of Ontario, to the satisfaction of the Manager of Development Engineering or his/her designate. The Servicing Plan shall indicate that the severed and retained parcels have been or can be independently serviced with municipal services from a public highway including any agreements or easements as may be required to facilitate servicing of the severed and retained parcels.
6. Birkett Lane is identified in the Official Plan for a road widening to an ultimate right-of-way (ROW) width of 24.5 meters, however due to right-of-way limitations, only a 20.0 metre right-of-way is being pursued. Typically, half of the required widening shall be conveyed to road ROW from this property measured from the centre of the existing road ROW. This will result in an irregularly shaped triangular widening being required due to the existing varied right-of-way adjacent to the dyke. A reference plan will be required with measurements determined by an Ontario Land Surveyor.
7. That the above conditions be fulfilled and the Certificate of Consent be issued on or before October 5, 2025, after which time the consent will lapse.

Appendix B – Official Plan

OFFICIAL PLAN EXCERPT MAP

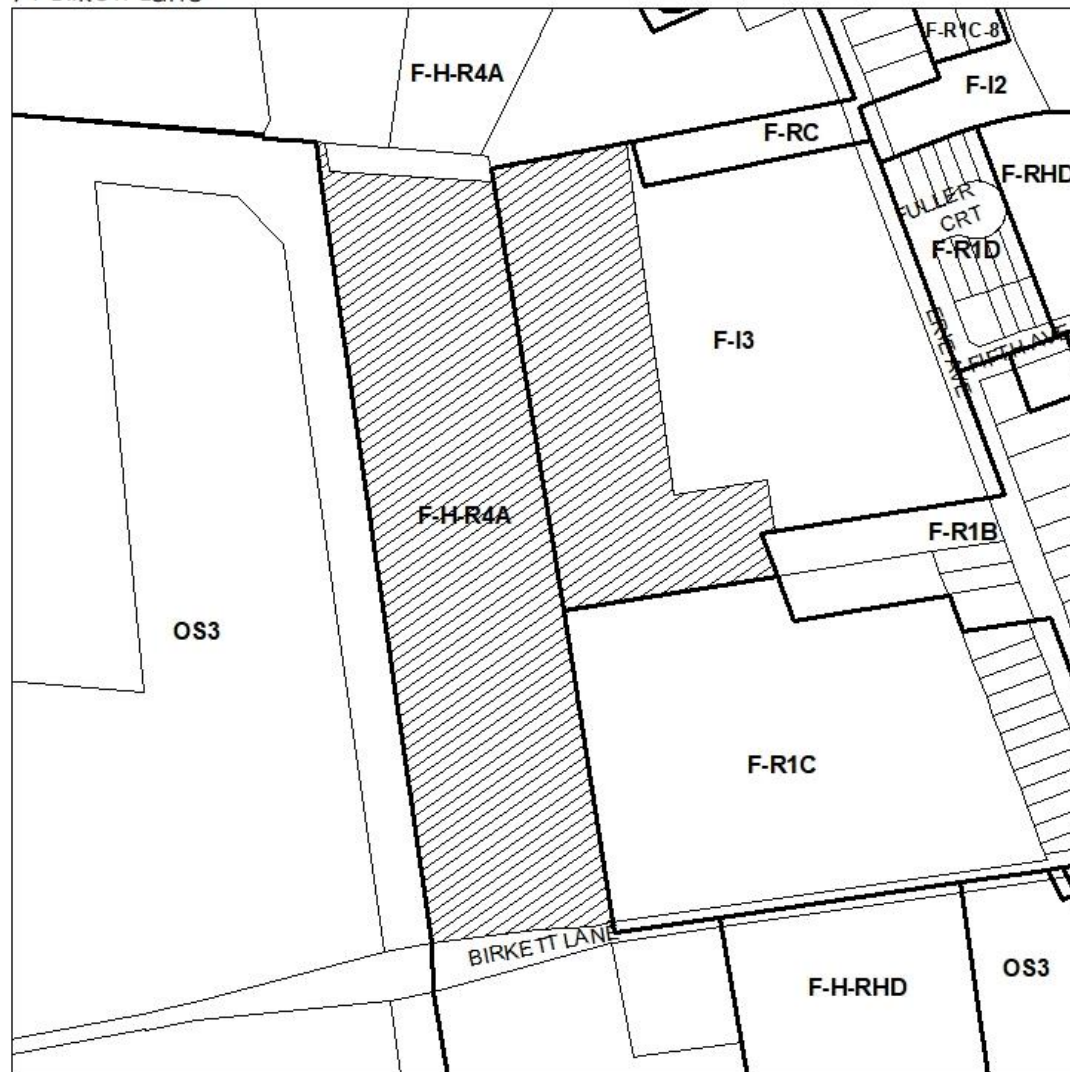
Application: B35/2023
91 Birkett Lane



Appendix C – Zoning

ZONING

Application: B35/2023
91 Birkett Lane



Legend

- Subject Land
- Zone Boundary



0 100 200 Metres

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

- R1B Residential Type 1B (15 metre)
- R1C Residential Type 1C (12 metre)
- R1D Residential Type 1D (9 metre)
- RC Residential Conversion
- R4A Residential Medium Density Type A
- RHD Residential High Density
- I2 Institutional School
- I3 Institutional Major
- OS3 Open Space Restricted
- H Holding Provision
- F Floodplain Provision
- # Exception Number