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**Date** January 22, 2020 **Report No.** 2020-45

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

**From** Sean House  
Planner

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## 1.0 Type of Report

Committee of Adjustment Decision Regarding Consent Application

## 2.0 Topic

<b>APPLICATION NO.</b>	B35/2019
<b>AGENT</b>	Dentons Canada LLP
<b>APPLICANT/OWNER</b>	Canadian National Railway Company
<b>LOCATION</b>	56 Henry Street and abutting railway corridor

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## 3.0 Recommendation

- A. THAT application B35/2019 to sever the southeastern portion of the lands where the Canadian National Railway Corridor intersects Henry Street, having a lot area of 675 m<sup>2</sup> to be merged with the property municipally known as 56 Henry Street BE APPROVED, subject to the conditions attached in **Appendix A** of Report No. 2020-45; and
- 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 Greater Golden Horseshoe and the Provincial Policy Statement; and

- C. THAT pursuant to Section 53(17) – (18.1) 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. 2020-45.”*

#### 4.0 Purpose and Description of Application

A consent application for lot boundary adjustment has been received for the lands municipally addressed as 56 Henry Street and the abutting railway corridor to the west operated by the Canadian National Railway Company (CN). A location map and conceptual site plan are attached as **Appendices B and C**. As illustrated in **Appendix C**, the application for boundary adjustment proposes to transfer 675.4 m<sup>2</sup> (severed lands) from the railway corridor (retained lands) to 56 Henry Street (receiving lands). The severed lands are uniquely shaped and extend approximately 45 m easterly along Henry Street. These lands are currently being utilized by the abutting property (56 Henry Street) for parking and driveway purposes and will continue to be used in this manner should the application be approved. The retained lot would maintain an area of approximately 1.85 hectares and will continue to operate as a rail corridor. No development is proposed. The lot dimensions are detailed below:

	<b><i>Lands to be severed and merged with 56 Henry Street</i></b>	<b><i>Lands to be retained (CN Rail Corridor)</i></b>
<i>Width (m)</i>	44.8	±55 m
<i>Depth (m)</i>	75.5	±425
<i>Area (m<sup>2</sup>)</i>	675.4	±18,560

#### 5.0 Site Features

The subject lands are located on the south side of Henry Street, west of Brock Street. The lands at 56 Henry Street are occupied by a wholesale and service

industry use known as Renway Energy Inc. The CN owned lands operate as a railway corridor. Single detached dwellings are located to the east of the subject lands, and a mix of industrial, commercial and residential uses are located to the north, south and west. An aerial photo and photographs of the subject lands are attached as **Appendices D and E**.

## **6.0 Input from Other Sources**

### **6.1 Technical Comments**

This application was circulated to all applicable departments and agencies and no objections were received. Detailed comments from the Building and Engineering Department s are attached as **Appendices F and G**. As a condition of consent, Traffic and Parking Services is requesting a conveyance of 5.5 m along the frontage of Henry Street for a widening of the road right-of-way. This conveyance will be required to be provided free and clear of any and all encumbrances.

### **6.2 Public Response**

Notice of public hearing was issued by personal mail (39 notices) and by posting a sign on-site. A plan illustrating the notification area is attached as **Appendix H**. No objections were received upon the writing of 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 Provincial Policy Context**

Application B35/2019 was reviewed in the context of Provincial Policy, including the Provincial Policy Statement (PPS) 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 depends on wisely managing change and promoting efficient land use and development

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patterns. The Growth Plan outlines the principals that provide the basis for 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 application is consistent with the direction set out in the PPS and conforms to the Growth Plan.

## **7.2 City of Brantford Official Plan**

The subject lands are designated “Residential Area – Low Density” in the City’s Official Plan (**Appendix I**). The “Residential Area – Low Density” designation permits a variety of low density dwelling types including single detached, semi-detached, duplex and triplex dwellings. While the current industrial use at 56 Henry Street is not included as a permitted use within this designation, Section 18.12 of the Official Plan recognizes it as a legal non-conforming use as it is lawfully permitted through the Zoning By-law.

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

The subject lands are zoned “General Industrial Zone (M2)” in Zoning By-law 160-90 (**Appendix J**). The M2 Zone permits industrial uses, including manufacturing, warehousing, and the existing wholesaling and service industry uses at 56 Henry Street. In accordance with Section 6.1 of Zoning By-law 160-90, Rail lines, including tracks, spurs, and other railway facilities are permitted in all zones.

## **7.4 Planning Analysis**

The *Planning Act* sets the standard to which provincial and local interests, policies and goals are implemented. Part VI of the *Planning Act* (Sections 50-57) regulates the subdivision of land, and Section 53 addresses consents specifically. Subsection 53 (12) refers back to Subsection 51 (24) which 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 lots and the adequacy of utilities and municipal services. Section 18.9.2 of the Official Plan also lists criteria for consent applications, including if the severance is for the purpose of infilling, if no extension or improvement of municipal services are required and if the lot will have frontage on a public road.

The proposed boundary adjustment will formalize an existing situation that supports the daily operations of a permitted use. As no development is proposed, there is no need for extension or improvement of municipal services and the receiving lands maintain frontage on a public road. The addition of 645 m<sup>2</sup> to 56 Henry Street brings the lands further into conformity with the minimum lot area regulations of the M2 Zone. The proposed boundary adjustment is consistent with the criteria of Section 51(24) of the *Planning Act* and Section 18.9.2 of the Official Plan.

Planning Staff note that aerial photography appears to show an encroachment of the parking area for the lands at 58 Henry Street onto the severed lands. The location of 58 Henry Street is labelled in **Appendix B** and **D**. As these lands are to be conveyed to the City for road widening purposes, it is a condition that they are to be dedicated free and clear of any and all encumbrances. Further, to ensure that the severed lands merge with 56 Henry Street, it is stipulated as a condition that Section 50 (5) of the *Planning Act* shall apply to any subsequent conveyance of the severed parcel. Therefore, the Solicitor acting in the transfer will provide a letter of undertaking confirming that the severed parcel will be merged in title with the lands municipally known as 56 Henry Street.

## 7.5 Conclusion

A site inspection was completed on October 30, 2019. Upon completion of this visit and review of all relevant policies, Planning Staff are supportive of the application. The proposal is consistent with the applicable planning policy framework in the PPS, Growth Plan, and Official Plan.

Planning Staff recommend that application B35/2019 be approved, subject to the attached conditions in **Appendix A** of this Report.



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Prepared By: Sean House,  
Development Planner  
Prepared On: January 15, 2019



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

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## Appendix A - Conditions of Consent B35/2019

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### Subject to the following conditions:

1. ☒ Receipt of a registered reference plan showing the proposed lot fabric;
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 lands to be severed and retained have been, or will be, independently serviced with water and sanitary sewer service by the owner, to the satisfaction of the General Manager of Engineering and Operational Services;
5. ☒ Pursuant to Section 50(12) of the *Planning Act*, it is hereby stipulated that Section 50(5) of the *Planning Act* shall apply to any subsequent conveyance of the severed parcel. Therefore, the Solicitor acting in the transfer will provide a letter of undertaking confirming that the severed parcel will be merged in title with the lands municipally known as 56 Henry Street.
6. ☒ 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 and free and clear of any encumbrances, with any costs regarding the transfer being borne by the Applicant(s);
7. ☒ That the above conditions be fulfilled and the Certificate of Official be issued on or before January 22, 2021, after which time the consent will lapse.

## Appendix B – Location Map


### LOCATION MAP

Application: B35/2019

56 Henry Street



#### Legend

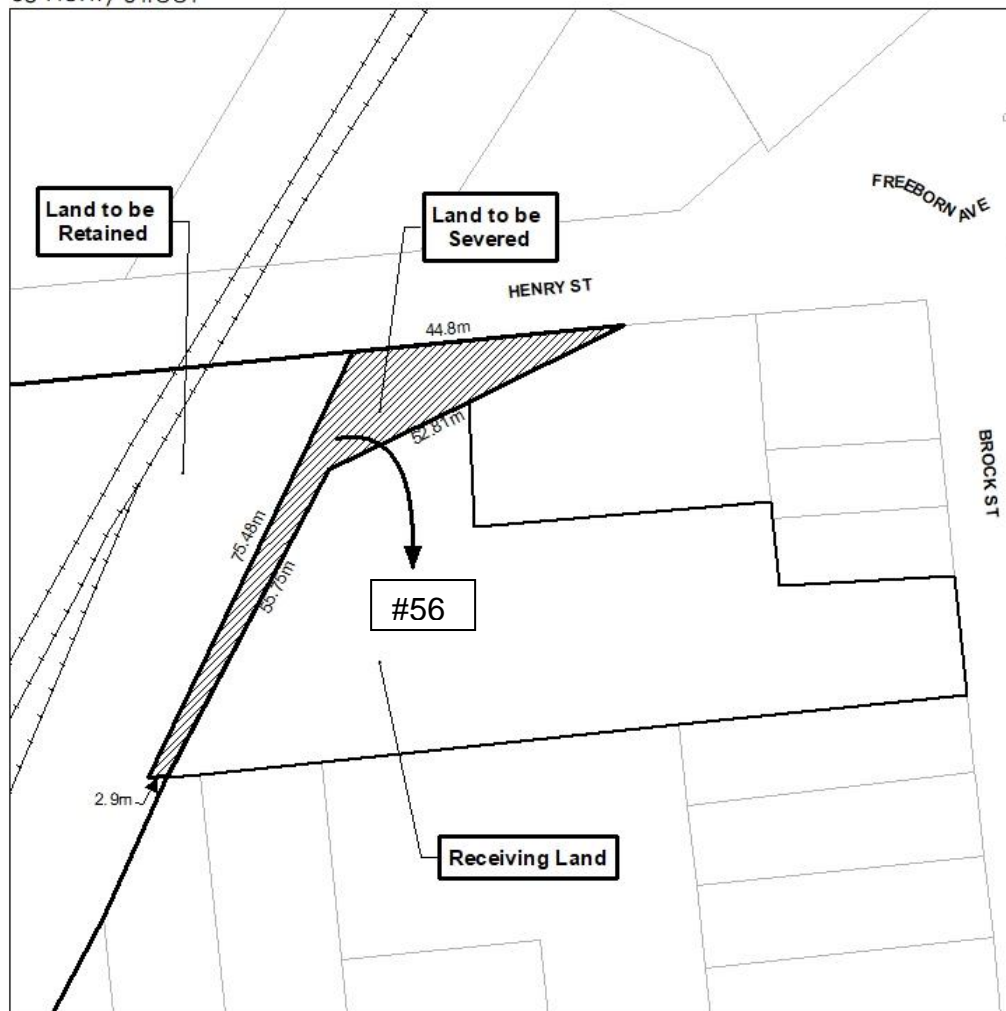
 SUBJECT LAND




## Appendix C – Conceptual Site Plan

### SITE PLAN MAP

Application: B35/2019  
56 Henry Street



#### Legend

 SUBJECT LAND

\*Numbers provided by the applicant

\*Drawing is not to the scale






## Appendix D – Aerial Photograph

### AERIAL PHOTO

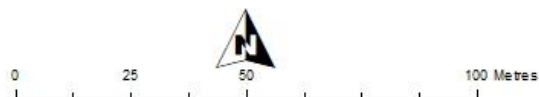
Application: B35/2019  
56 Henry Street



### Legend

 Subject Land

Aerial Photo from Spring 2017



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## Appendix E – Site Photos



Photos of subject lands taken from Henry Street

## Appendix F – 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> ..... **B35-2019**

**SITE:** Southeast Portion of CN Corridor at Henry Street  
**TO PERMIT:** Boundary Adjustment  
**APPLICANT:** Canadian National Railway

**COMMENTS:**

BYLAW: 160-90      ZONE: M2

There are no active permits or orders against this property.

There are no objections to this proposed boundary adjustment.

Based on the information provided, this proposal appears to comply with the development regulations for the noted zone.

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

Ross Thomson, MAATO, CBCO, CPSQ  
Chief Building Official

November 22, 2019



## Appendix G – Engineering Department Comments

No. B35/2019

### COMMITTEE OF ADJUSTMENT APPLICATION ENGINEERING SERVICES STAFF REPORT

HEARING DATE: NOVEMBER 20, 2019  
NAME OF APPLICANT / OWNER: Canadian National Railway Company  
AGENT: Dentons Canada LLP  
ADDRESS: Southeast Portion of CN Corridor at Henry Street  
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

1. Henry St is identified, in the Official Plan, for a widening of the road right-of-way (ROW) to an ultimate width of 26m. This will require a conveyance of 5.5m along the frontage of Henry St from the properties pertaining to 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. B35/2019

COMMITTEE OF ADJUSTMENT APPLICATION  
ENGINEERING SERVICES STAFF REPORT

HEARING DATE: NOVEMBER 20, 2019  
NAME OF APPLICANT / OWNER: Canadian National Railway Company  
AGENT: Dentons Canada LLP  
ADDRESS: Southeast Portion of CN Corridor at Henry Street  
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:

3. WATER

- I reviewed the consent application and accompanying documentation, as prepared by Dentons Canada LLP.—on behalf of Environmental Services and have no objections.

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


4. DEVELOPMENT ENGINEERING

- Confirmation that the servicing for 58 Henry Street is not within that severed lands.



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

November 20, 2019  
DATE

 Dec 4/19  
I. HANS, P. ENG., PMP  
DIRECTOR, ENGINEERING SERVICES  
PUBLIC WORKS COMMISSION

## Appendix H – Notification Area

### AREA OF PUBLIC NOTIFICATION

Application: B35/2019

56 Henry Street



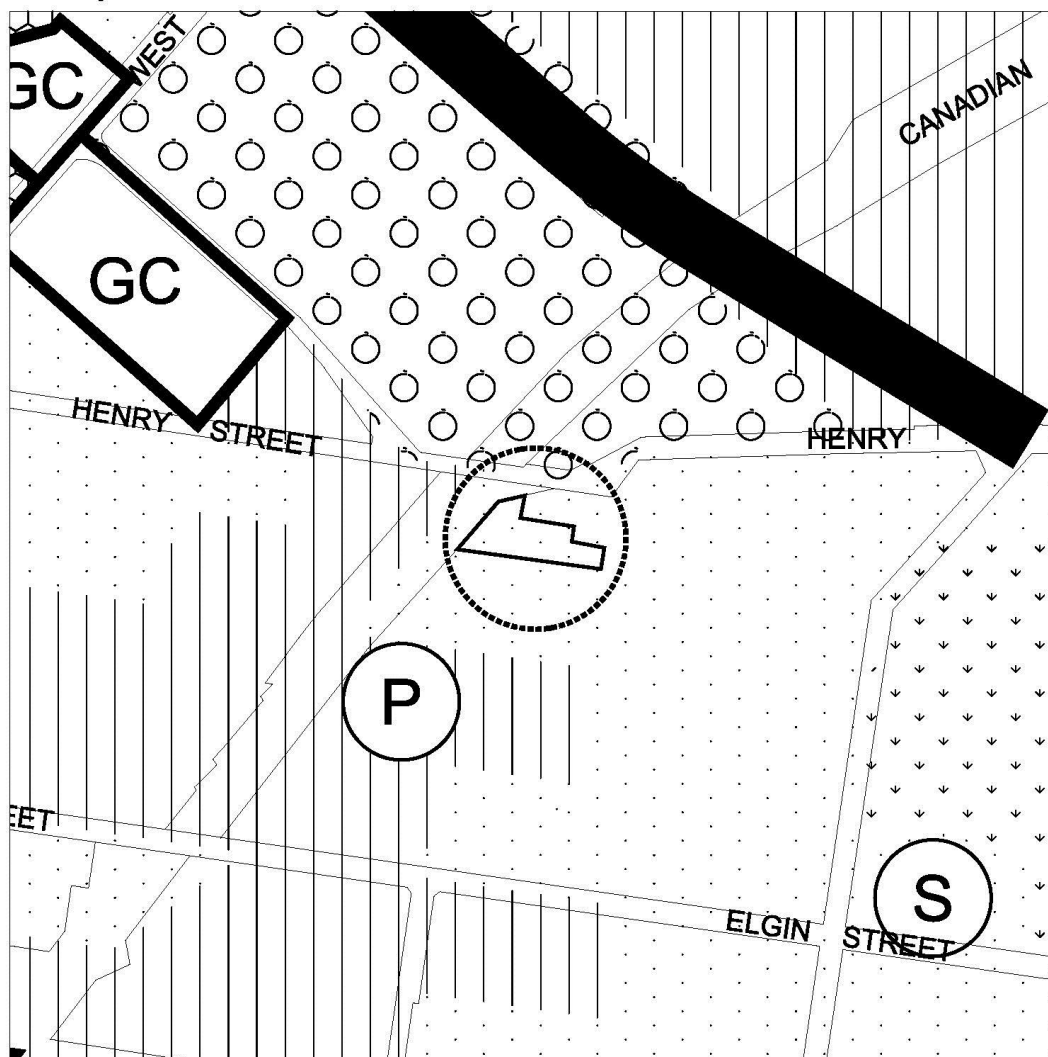
#### Legend

-  Subject Land
-  Notified Properties
-  60 m Buffer from Subject Land



## OFFICIAL PLAN









**56 Henry Street**










**LEGEND**



## SUBJECT LANDS

- |   |                                  |
|---|----------------------------------|
|  | 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                 |

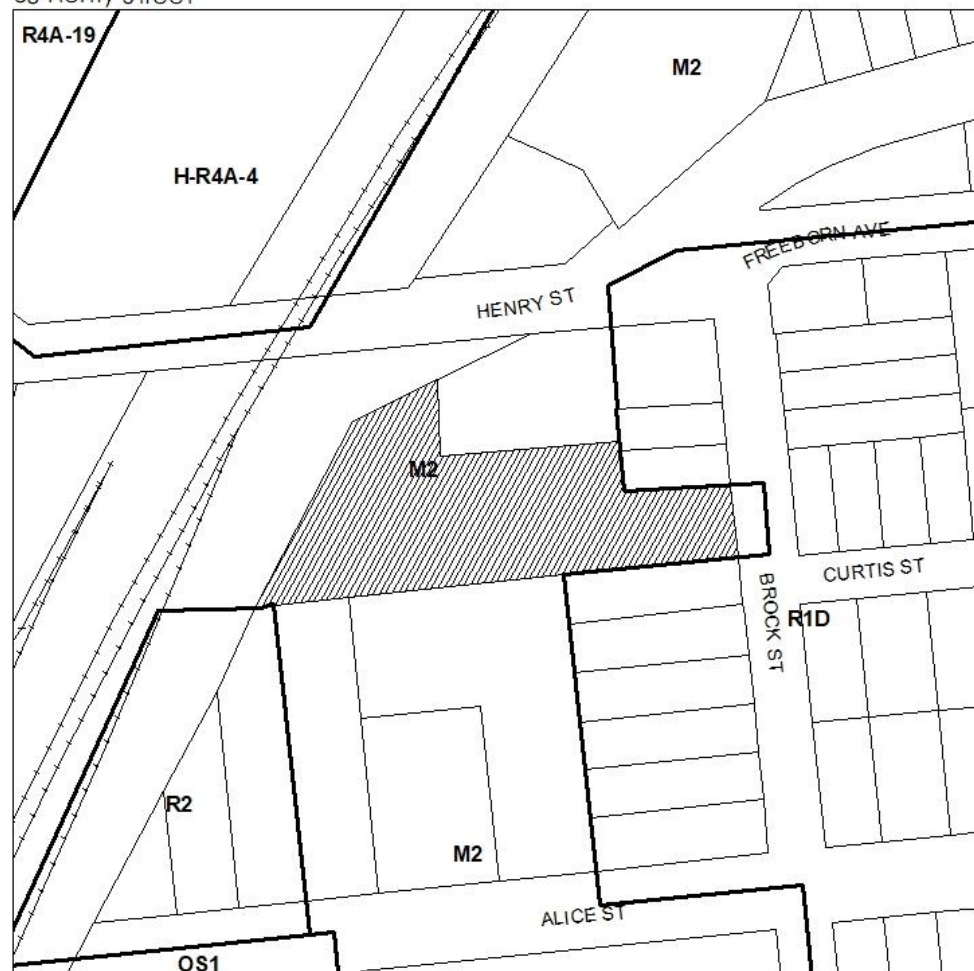
- |             |                                      |
|-------------|--------------------------------------|
| <b>CORE</b> | CORE COMMERCIAL AREA                 |
| <b>CC</b>   | COMMUNITY CENTRE COMMERCIAL AREA     |
| <b>GC</b>   | GENERAL COMMERCIAL AREA              |
| <b>MCR</b>  | MIXED COMMERCIAL RESIDENTIAL AREA    |
| <b>DC</b>   | DISTRICT CENTRE COMMERCIAL AREA      |
| <b>NC</b>   | NEIGHBOURHOOD CENTRE COMMERCIAL AREA |
| <b>HC</b>   | HIGHWAY COMMERCIAL AREA              |
| <b>NFC</b>  | 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 J – Zoning Map

### ZONING

Application: B35/2019  
56 Henry Street



#### Legend

- Subject Land
- Zone Boundary

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

- R1D Residential Type 1D ( 9 metre)
- R2 Residential Type 2
- R4A Residential Medium Density Type A
- OS1 Open Space Type 1
- M2 General Industrial
- 3 Exception Number

