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Date December 2, 2020 **Report No.** 2020-566

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.	A20/2020
AGENT	R.G. Richards & Associates
APPLICANT/OWNER	I.G. Investment Management Ltd. & NADG (LPM) GP Ltd.
LOCATION	84 Lynden Road

3.0 Recommendation

- A. THAT Application A20/2020 requesting relief from Section 9.11.3.4.4.8.1.3 of the City of Brantford Zoning By-law 160-90 to permit a gross leasable area of 15,105 m² for a retail warehouse, whereas the maximum gross leasable area of a retail warehouse at 84 Lynden Road is 13,005 m² BE APPROVED;
- B. THAT the reason(s) for approval are as follows: the proposed variance is in keeping with the general intent of the Official Plan and Zoning By-law, the relief requested is considered minor in nature and is desirable for the appropriate development and use of the land; and

-
- C. THAT pursuant to Section 45(8) – (8.2) of the *Planning Act*, R.S.O 1990, c.P.13, the following statement SHAL 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. 2020-566.”

4.0 Purpose and Description of Application

A minor variance application has been received for the lands municipally addressed as 84 Lynden Road. The applicant is proposing to develop a retail warehouse and associated gas bar. To facilitate the development as proposed, the applicant is seeking relief from the following Section of Zoning By-law 160-90:

- Section 9.11.3.4.4.8.1.3 to permit a gross leasable area of 15,105 m² for a retail warehouse, whereas the maximum gross leasable area of a retail warehouse at 84 Lynden Road is 13,005 m².

The property is designated “District Centre Commercial Area” in the Official Plan and zoned “Holding – District Centre Commercial Exception 4 Zone (H-C11-4)” in the Zoning By-law.

The subject lands have been subject to multiple planning applications, including Official Plan and Zoning By-law Amendment applications OP-03-15 and PZ-12-15 (Report No. CD2016-113), Site Plan Control application SPC-18-2017 and a subsequent application SPC-19-2020. The Official Plan and Zoning By-law amendment applications were approved by Council in June 2016. The Official Plan amendment applied the Modified Policy Area 125 to the lands which allowed for a supermarket, retail warehouse, department store and hotel uses, as well as permitted an increase in maximum gross floor area for retail uses. The Zoning By-law amendment rezoned the property to one zone (H-C11-4), which permitted the retail warehouse, hotel, apartment dwellings and retirement home uses, and applied additional zoning regulations including the maximum gross leasable area for the retail warehouse use. The lands are subject to a Master Site Plan (SPC-18-2017) which was registered on the subject lands in September 2019, each Phase of development will be subject to a Site Plan Control application and will be required to adhere to the overall approved Master Plan. The proposed retail warehouse and associated gas bar are being developed under Site Plan Control application SPC-19-2020.

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 bound by Lynden Road to the north, Woodyatt Drive to the east, the Alexander Graham Bell Parkway (Highway 403) to the south and Wayne Gretzky Parkway to the west. Roy Boulevard terminates at the eastern boundary of the subject lands. A shopping centre 'Lynden Park Mall' and four other outbuildings including three restaurants and a bank exist on the subject lands.

The existing mall and outbuildings currently occupy approximately 14% of the total subject lands and it was always anticipated that additional development of the lands would take place in the future. The retail warehouse and associated gas bar is proposed to be located on the southern portion of the lands that is currently vacant.

The Brantford Visitor and Tourism Centre is accessed through the subject lands from Wayne Gretzky Parkway but is located on its own parcel of land to the south of the subject lands. The lands are generally surrounded by a mix of commercial and industrial uses. Commercial uses are located along Lynden Road to the north with industrial uses located beyond. Residential uses including single detached dwellings, townhouses and apartment uses are also located further to the northeast and northwest. Industrial uses including manufacturing and warehouse uses are located to the east. The lands to the west are predominantly commercial in nature including Canadian Tire, Staples, Zehrs, a hotel, fitness centre, and other smaller retail uses as well as restaurants and medical offices. To the southeast of Alexander Graham Bell Parkway (Hwy. 403) are other service commercial and retail uses and along Holiday Inn Drive a Home Depot, Best Western Brant Park Inn as well as other offices and a place of worship. Additional industrial uses and lands are located further to the southwest.

An aerial photo and site photographs are attached as **Appendices C** and **D**.

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 Building and Engineering Departments are attached as **Appendices E** and **F**.

6.2 Public Response

Notice of public hearing was issued by personal mail (15 notices) and by posting 3 signs on-site (one on Wayne Gretzky Parkway, one on Roy Boulevard and one on Lynden Road). At the date of the preparation of this Report, no responses have been received. A map of the area of notification is included as **Appendix G** of this Report.

7.0 Planning Staff Comments and Conclusion

7.1 Provincial Policy Context

Application A16/2020 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 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 minor variance 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 "District Centre Commercial Area" in the City's Official Plan (**Appendix H**). The subject lands are also within the Modified Policy Area 125, and in an "Intensification Corridor" as set out on Schedule 1-2 Growth Management Plan to the Official Plan.

Lynden Park Mall is one of two areas in the City of Brantford designated "District Centre Commercial Area". The main permitted uses within this designation include shopping centres or retail areas that provide a broad range of retail services and office commercial uses which serve the City of Brantford and surrounding area. Section 7.3.3.4 provides that the total maximum gross floor area shall not generally exceed 76,000 m². Modified

Policy Area 125 allows supermarkets, department stores, hotels and retail warehouses to also be permitted on the subject lands.

Section 7.3.1.6 of the Official Plan may require studies to be submitted for commercial development under 9,290 m² of gross leasable area. The applicant is proposing to increase the permitted gross leasable area by 2,100 m² above what is currently permitted in the Zoning By-law. In this regard, the applicant submitted a planning justification report, market study analysis, a traffic impact study and an engineering analysis as part of the minor variance and site plan applications.

The proposed retail warehouse and associated gas bar are permitted within the Official Plan designation and Modified Policy Area and therefore the application meets the intent of the Official Plan.

7.3 City of Brantford Zoning By-law 160-90

The subject lands are zoned “Holding – District Centre Commercial – Exception 4 Zone (H-C11-4)” in Zoning By-law 160-90 (**Appendix I**). The parent “District Centre Commercial Zone” permits shopping centres comprised of a wide variety of retail commercial uses including major department stores, automobile gas bars, and retail stores.

The special exception is consistent with the Modified Policy Area 125 of the Official Plan, as described in Section 7.2 of this Report. The H-C11-4 Zone permits the additional uses outlined in Modified Policy Area 125, including a retail warehouse, and provides regulations for development of the subject lands. The proposed retail warehouse and associated gas bar are permitted uses under the H-C11-4 Zone. Section 9.11.3.4.4.8.1.3 of the Zoning By-law permits a maximum gross leasable area of 13,005 m² for the retail warehouse use on the subject lands. This is the only regulation being sought for relief; all other regulations comply with the Zoning By-law.

A Holding “H” provision also applies to the lands and the requirement for the removal of the Holding is detailed in Exception 4, and may be in whole or in part once the Owner has entered into a Site Plan Agreement to the satisfaction of the City and Grand River Conservation Authority and any other agencies. Once the applicant has signed the Site Plan Agreement for SPC-19-20, the owner will have to apply for an application (including fee) to remove the Holding “H” provision for the portion of the land where the Site Plan is applicable, this is further identified is the conditional Site

Plan approval dated September 24, 2020 (Condition 48). Planning Staff will prepare a report and by-law to be presented to Council to remove the Holding “H” provision at a future date.

7.4 Analysis

When evaluating the merits of a minor variance application, the Committee of Adjustment must be satisfied that the four tests of Section 45(1) of the *Planning Act* have been met. 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.

The increase in gross leasable area for a retail warehouse at 84 Lynden Road is minor in nature and appropriate use and development of the lands as it is not expected to have an adverse impact on the existing retail within the City of Brantford. The proposed retail warehouse will make use of a vacant portion of the Lynden Park Mall lands and provide an opportunity for an additional retail use.

The intent of this Section of the Zoning By-law was to ensure that the retail warehouse development would not impact existing and planned commercial retail in the City of Brantford. The restriction of 13,005 m² was determined at the time of the rezoning application in 2016 (Applications OP-03-15 & PZ-12-15, Report No. CD2016-113), through the market study analysis report titled “Lynden Park Mall Expansion, Retail Market Demand and Impact Analysis, Brantford ON” by Tate Economic Research Inc. dated July 2015 and subsequent peer review by Malone Given Parsons dated January 15, 2016 and conceptual plans which illustrated a maximum gross leasable area of 13,005 m² for the proposed retail warehouse. It was determined through these reports that a retail warehouse with a maximum gross leasable area of 13,005 m² is justified and would have an impact on commercial retail within the study area. The peer review by Malone Give Parsons provided a recommendation that any proposed increase in these maximums should be subject to the findings of an impact study. Since 2016, the retailer (Costco Canada) has revised their plan to reflect a floor plan similar to new locations they have built in Ontario which are on average similar to the proposed maximum gross leasable area of 15,105 m². This is an increase of 2,100 m² from what is permitted in the Zoning By-law. The provided Planning Justification Report prepared by WSP, referenced the new Market Demand & Impact Review by Urban

Metrics dated October 9, 2020 which states that the retail warehouse development would have no impact on the existing retail market. This Market Demand & Impact Review by Urban Metrics dated October 9, 2020 outlines that this increase in gross leasable area did not have impact on the 2016 market analysis results. There is no requirement for a market study analysis to be peer reviewed in the Official Plan, however in the past, peer reviews have been conducted based on the impact and complexity of the reports. In this instance, the market analysis concluded that the current proposed development would not have an impact and did not change the results of the 2016 market study analysis. Therefore Planning Staff are of the opinion that a peer review of the market analysis submitted with this application is not required. Planning Staff agree with the findings outlined in the market analysis and are of the opinion that the proposed variance meets the purpose and intent of the Zoning By-law.

Section 18.11.2 of the Official Plan lists criteria for minor variance applications, including if adequate provision is made for vehicular access and off-street parking on the lot and that building coverage is not excessive. Adequate parking is provided and the lot will continue to meet the minimum lot coverage requirements. Section 7.3.3.4 of the Official Plan states that the total maximum gross floor area (GFA) shall not generally exceed 76,200 m² for retail uses within the Lynden Park Mall. The existing mall and proposed retail warehouse will amount to a total GFA of 57,883 m² which is well within the permitted GFA for Lynden Park Mall. Planning Staff are of the opinion that the general intent and purpose of the Official Plan is maintained.

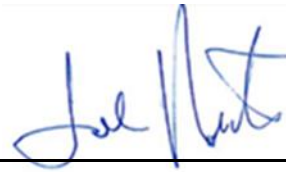
7.5 Conclusion

A site visit was conducted on November 19, 2020. Upon completion of this visit and review of the applicable policies, Planning Staff are supportive of the application. The minor variance will facilitate the development of a retail warehouse which provides additional local and regional retail opportunity and makes efficient use of the land. This type of development represents good land use planning that is encouraged by the *Planning Act*, PPS, Growth Plan and is in accordance with the policies set out in the Official Plan. The proposed development will also result in additional employment opportunities as well as provide a new destination that will attract retail shoppers from Brantford and the surrounding area. For the reasons mentioned above, the minor variance satisfies the criteria of

Section 45(1) of the *Planning Act*, and Staff recommend that application A20/2020 be approved.



Prepared by: Alexandra Mathers
Development Planner
Prepared on: November 27, 2020

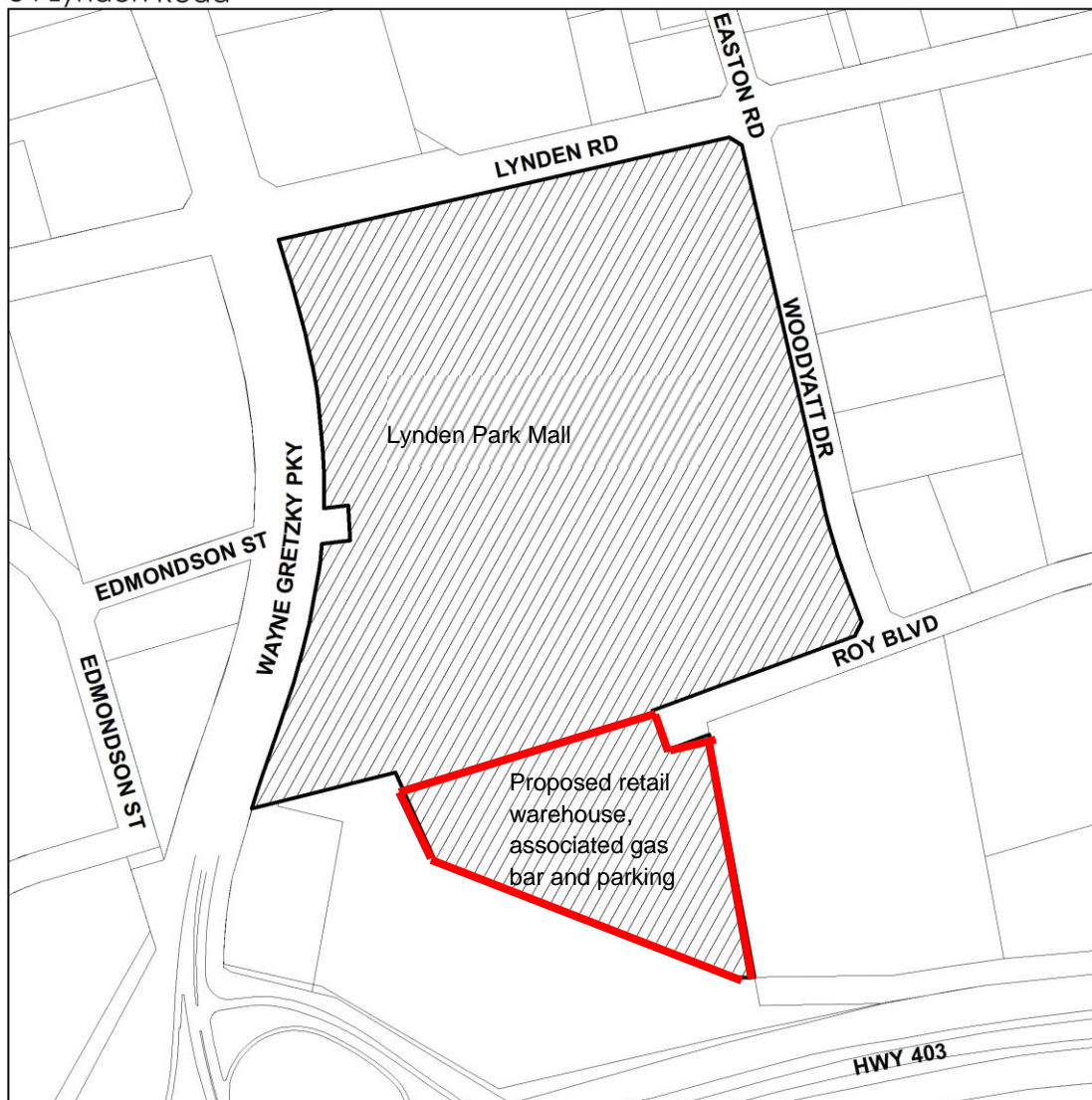


Reviewed By: Joe Muto MCIP, RPP
Manager of Development Planning

Appendix A – Location Map

LOCATION MAP

Application: A20/2020
84 Lynden Road



Legend

 SUBJECT LAND



SITE PLAN INFORMATION

EXISTING AND PROPOSED BUILDING AREA AND PARKING ADJACENT TO BLOCK

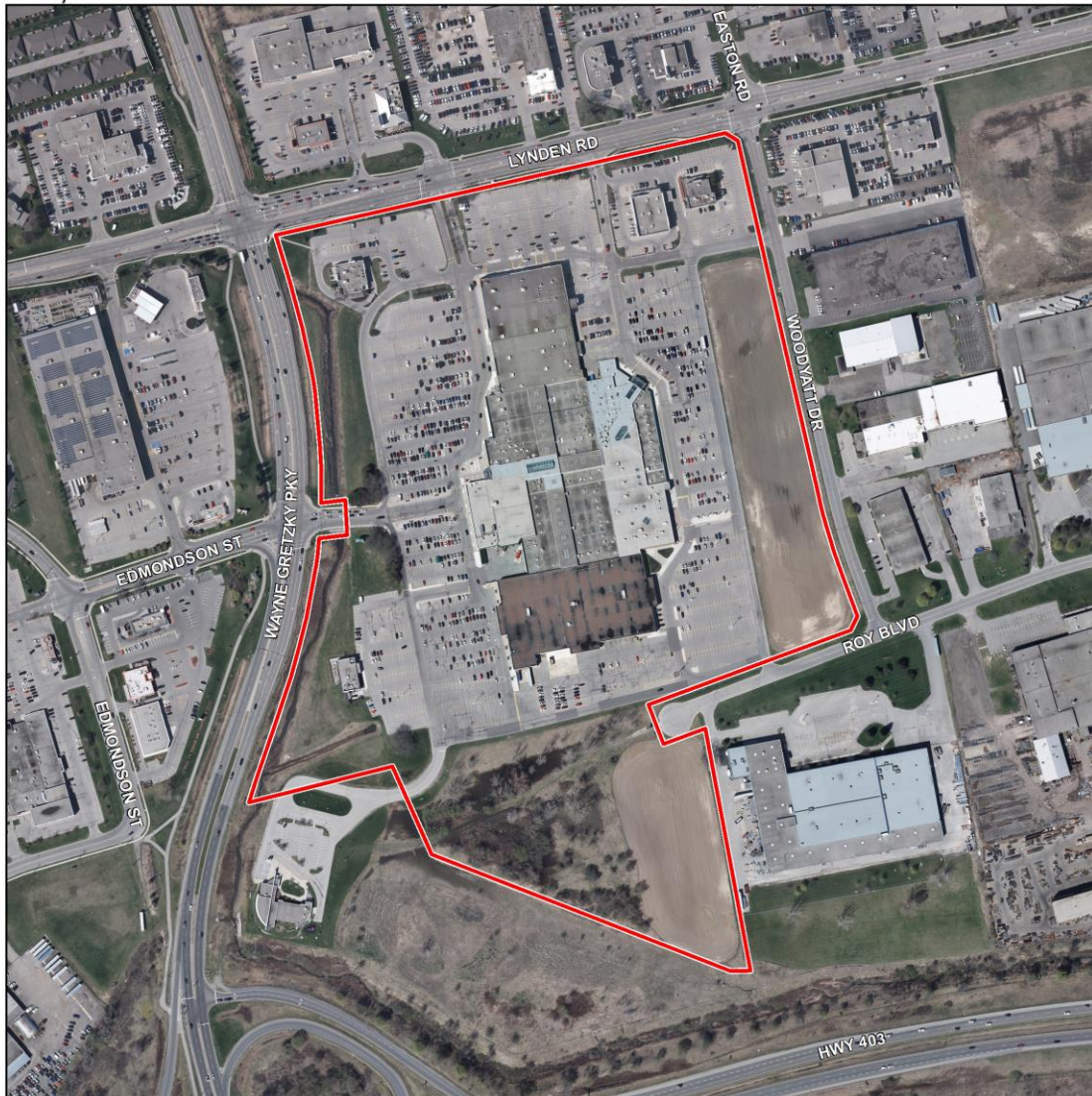
NO.	DESCRIPTION	AREA (SQ. FT.)	AREA (AC.)	PERCENTAGE OF TOTAL SITE AREA
1	EXISTING RETAIL BUILDING	100,000	2.30	100%
2	EXISTING PARKING LOT	100,000	2.30	100%
3	EXISTING PARKING LOT	100,000	2.30	100%
4	EXISTING PARKING LOT	100,000	2.30	100%
5	EXISTING PARKING LOT	100,000	2.30	100%
6	EXISTING PARKING LOT	100,000	2.30	100%
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65	EXISTING PARKING LOT	100,000	2.30	100%
66	EXISTING PARKING LOT	100,000	2.30	100%
67	EXISTING PARKING LOT	100,000	2.30	100%
68	EXIST			

Proposed retail
warehouse, associated
gas bar and parking


Appendix C – Aerial Photograph

AERIAL PHOTO

Application: A20/2020
84 Lynden Road



Legend

 Subject Land

Aerial Photo from Spring 2017



Appendix D – Site Photographs



Photo 1 (above) looking south from existing Lynden Park Mall parking lot towards proposed location of the future Costco and Photo 2 (below) looking west from the terminus of Roy Boulevard.



Appendix E – Building 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 A20-2020

SITE: 84 Lynden Road
TO PERMIT: Variance for gross leasable area
APPLICANT: R.G. Richards & Associates

COMMENTS:

BYLAW: 160-90 ZONE: H-C11-4

A minor variance to Section 9.11.3.4.4.8.1.3 to permit a gross leasable area of 15,105 m² for a retail warehouse, whereas the maximum gross leasable area for a retail warehouse at 84 Lynden Road is 13,005 m².

The Building Department has no objections to the proposed variance.

The proposal appears to meet all remaining relevant sections of the Zoning Bylaw.

A handwritten signature in black ink, appearing to read "Rob Porteous".

Rob Porteous
Senior Plans Examiner

Oct 20, 2020

Appendix F – Engineering Comments



CITY OF BRANTFORD ENGINEERING SERVICES DEVELOPMENT REVIEW ON

<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"/>	SITE PLAN APPROVAL	<input checked="" type="checkbox"/>	MINOR VARIANCE
<input type="checkbox"/>	CONSENT APPLICATION	<input type="checkbox"/>	SEVERANCE
<input type="checkbox"/>	OTHER -		
FILE NO.:		A20/2020	
DATE DUE TO PLANNING		November 6, 2020	
APPLICANT / OWNER		I.G. Investment Management Ltd. & NADG (LPM) GP Ltd.	
AGENT		R.G. Richards & Associates	
ADDRESS		84 Lynden Road	
TRANSPORTATION			

1. The increase in gross floor area is expected to increase the traffic generated by the site. This can be addressed through subsequent Site Plan Control submissions.

Jacob McDonald, C.E.T.
Transportation Technologist



**CITY OF BRANTFORD
ENGINEERING SERVICES DEVELOPMENT REVIEW ON**

<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"/>	SITE PLAN APPROVAL	<input checked="" type="checkbox"/>	MINOR VARIANCE
<input type="checkbox"/>	CONSENT APPLICATION	<input type="checkbox"/>	SEVERANCE
<input type="checkbox"/>	OTHER -		
FILE NO.:		A20/2020	
DATE DUE TO PLANNING		November 6, 2020	
APPLICANT / OWNER		I.G. Investment Management Ltd. & NADG (LPM) GP Ltd.	
AGENT		R.G. Richards & Associates	
ADDRESS		84 Lynden Road	
ENVIRONMENTAL SERVICES			

I reviewed the subject noted application and associated documents—as prepared by R.G. Richards & Associates, WSP Canada Group Ltd., Petroff Partnership Architects, J.D. Barnes Ltd., and MulvannyG2 Architecture—on behalf of Environmental Services and have no comments or concerns regarding the proposed variance.

Jennifer Elliott, LET, C.E.T.
Senior Project Manager, Environmental Services



**CITY OF BRANTFORD
ENGINEERING SERVICES DEVELOPMENT REVIEW ON**

<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"/> SITE PLAN APPROVAL	<input checked="" type="checkbox"/> MINOR VARIANCE
<input type="checkbox"/> CONSENT APPLICATION	<input type="checkbox"/> SEVERANCE
<input type="checkbox"/> OTHER -	
FILE NO.:	A20/2020
DATE DUE TO PLANNING	November 6, 2020
APPLICANT / OWNER	I.G. Investment Management Ltd. & NADG (LPM) GP Ltd.
AGENT	R.G. Richards & Associates
ADDRESS	84 Lynden Road
DEVELOPMENT ENGINEERING	

Conditions

- No conditions.

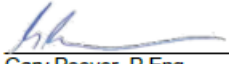
General Comments

- The increase in gross leasable area will increase the amount of stormwater discharged from the building's roof directly to the stormwater channel south of the site. This can be dealt with during the subsequent Site Plan Control submissions.

Adam Quibell, P.Eng., C.Tech.
Development Engineering Reviewer

*ADDITIONAL COMMENTS MAY BE ADDED AS A RESULT OF ADDITIONAL SUBMISSIONS OR INFORMATION IS PROVIDED *

November 18, 2020
DATE

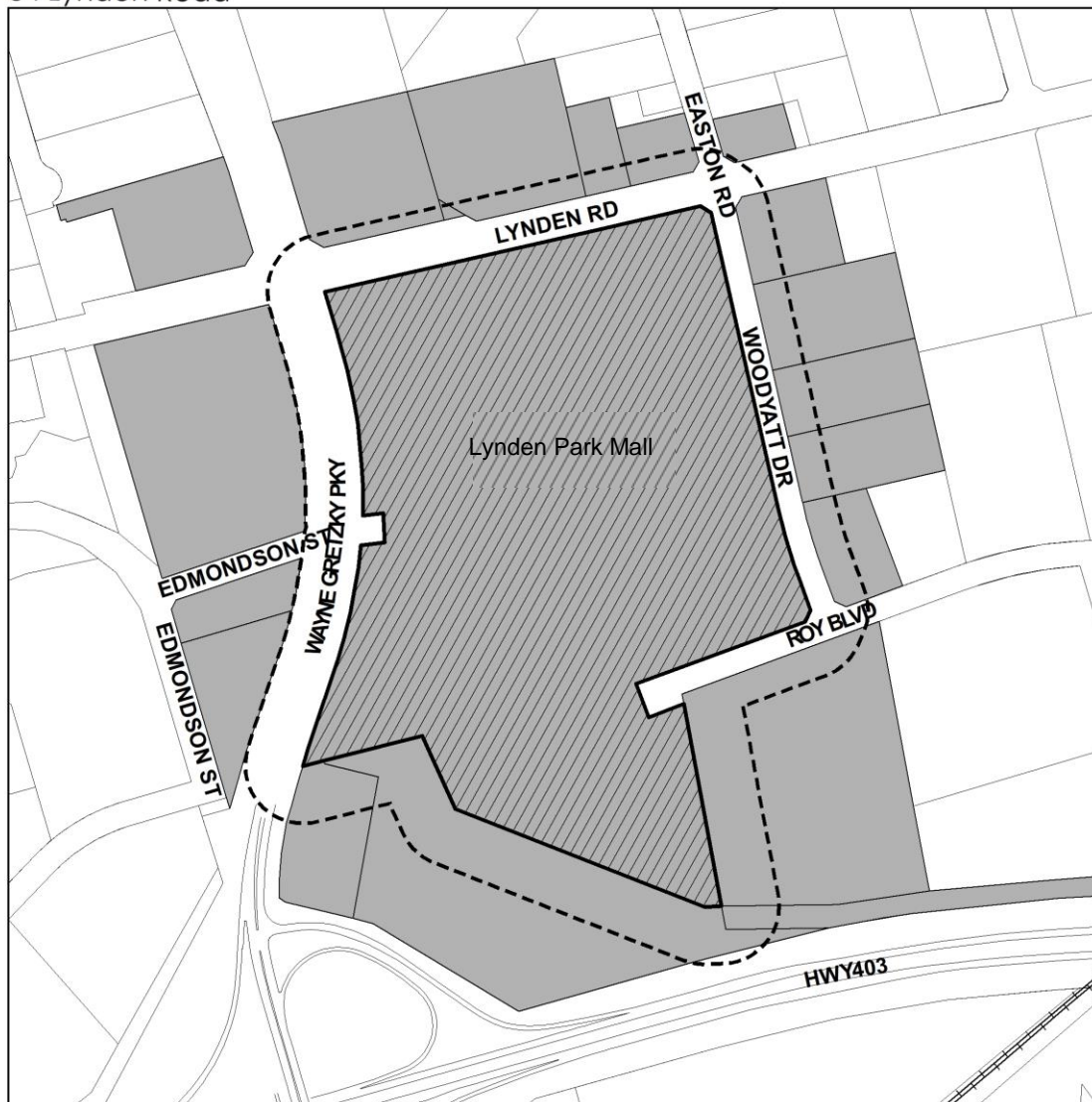

Gary Peever, P.Eng.,
Manager, Development Engineering

Appendix G – Area of Public Notification

AREA OF PUBLIC NOTIFICATION

Application: A20/2020

84 Lynden Road



Legend

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

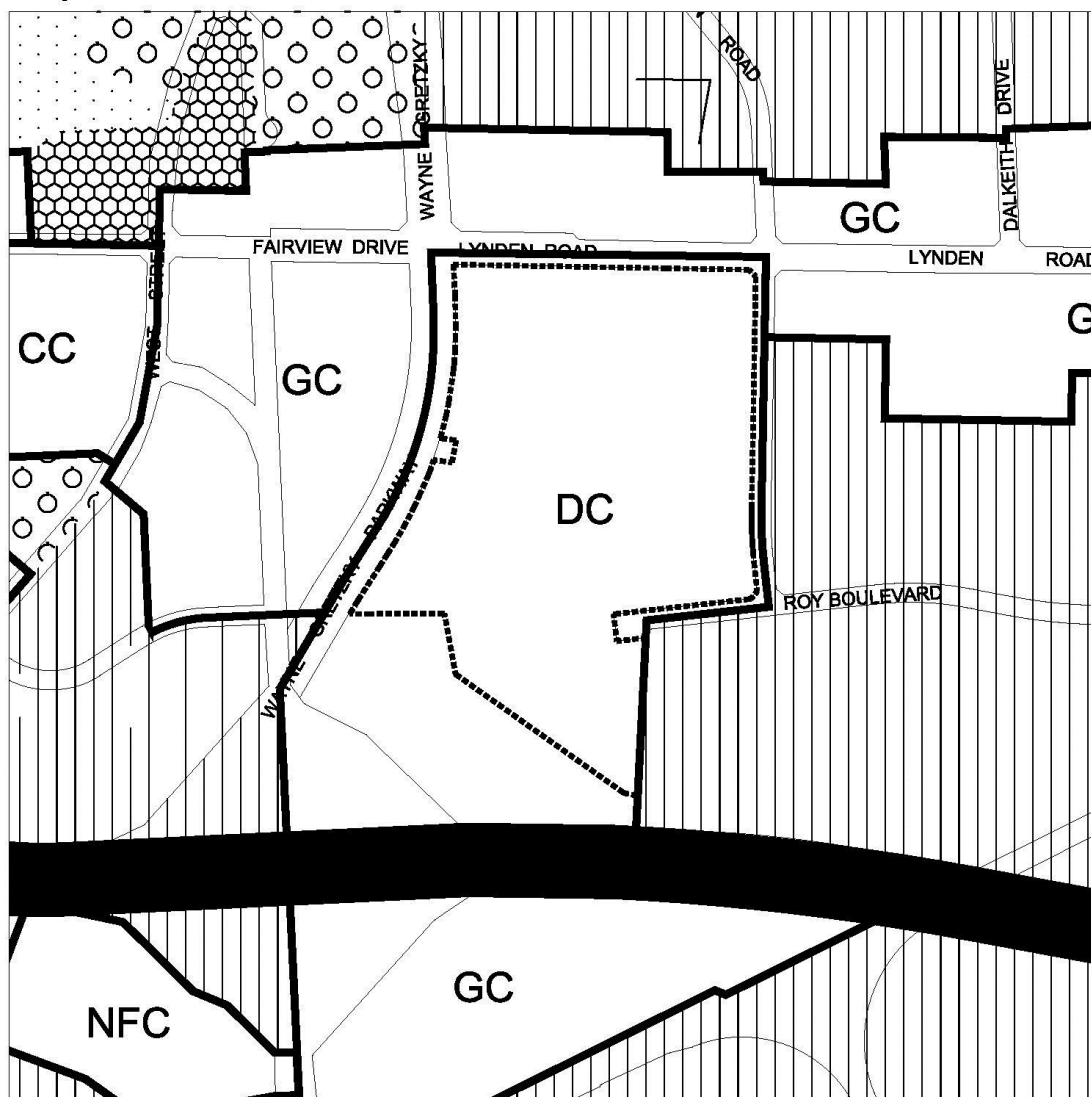


Appendix H – Official Plan

OFFICIAL PLAN

Application: A20/2020

84 Lynden Road



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

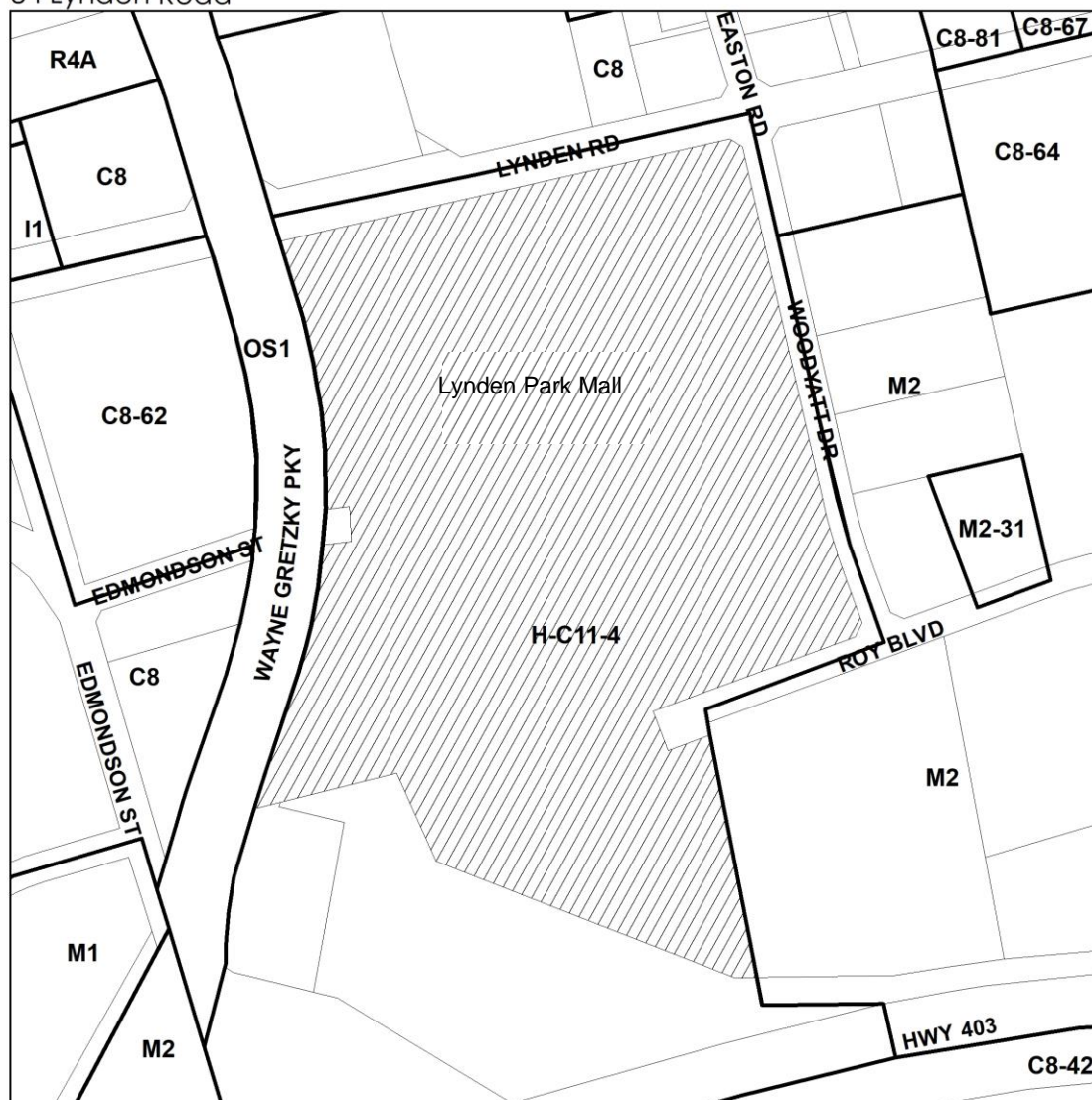
- CORE COMMERCIAL AREA
- COMMUNITY CENTRE COMMERCIAL AREA
- GENERAL COMMERCIAL AREA
- MIXED COMMERCIAL RESIDENTIAL AREA
- DISTRICT CENTRE COMMERCIAL AREA
- NEIGHBOURHOOD CENTRE COMMERCIAL AREA
- HIGHWAY COMMERCIAL AREA
- NEW FORMAT COMMERCIAL AREA

- CEMETERY
- ELEMENTARY SCHOOL
- FREEWAY
- SPECIALIZED PARK and OPEN SPACE
- COMMUNITY PARK and OPEN SPACE
- NEIGHBOURHOOD PARK and OPEN SPACE



Appendix I – Zoning

ZONING

Application: A20/2020
84 Lynden Road



Legend

-  Subject Land
-  Zone Boundary



0 150 300 Metres

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

- R4A Residential Medium Density Type A
- I1 Institutional Service
- C8 General Commercial
- C11 District Centre Commercial
- M1 Industrial Commercial
- M2 General Industrial
- OS1 Open Space Type 1
- H Holding Provision
- # Exception Number