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Date December 8, 2020 **Report No.** 2020-268

To Chair and Members
Committee of the Whole – Community Development

From Paul Moore, General Manager
Community Development

1.0 Type of Report

Consent Item ☐
Item For Consideration ☒

2.0 Topic **Closure of Files - Official Plan Amendment OP-01-16 and Zoning By-law Amendment PZ-03-16 (8-10 Craig Street) [Financial Impact – None]**

3.0 Recommendation

- A. THAT Report 2020-268, Closure of Files – Official Plan Amendment OP-01-16 and Zoning By-law Amendment PZ-03-16 (8-10 Craig Street), BE RECEIVED; and
- B. THAT the \$250,000 allocated from the Corporate Contingency Reserve (RF0554) for an Area Wide Transportation Study for Wayne Gretzky Parkway Corridor (from Lynden Road to Henry Street) BE RETURNED to the Corporate Contingency Reserve (RF0554), and that the Capital Project - Feasibility Study for Wayne Gretzky Parkway (TS1805) BE CLOSED.

4.0 Purpose

The purpose of this Report is to update Council in regard to the closure of two planning application files (OP-01-16 and PZ-03-16) related to lands located at 8-

10 Craig Street, and recommends actions to be taken regarding Council's decision on June 26, 2018, as referenced in Section 5 of this Report.

A copy of the Staff Report respecting these files can be found at the following link: [June 26, 2018 City Council Agenda](#).

5.0 Background

In 2016, the City of Brantford received applications from the Rice Group to amend the City of Brantford Official Plan and Zoning By-law 160-90 (File No. OP-01-16 & PZ-03-16) affecting lands located at the northwest corner of Wayne Gretzky Parkway and Morton Avenue (municipally known as 8-10 Craig Street) (see **Appendix A**). At that time, the applicant was proposing to redevelop the subject lands for a commercial use, specifically a retail warehouse (containing a tire station, propane station, seasonal centre, and associated gas bar).

Through Staff's review of the applications, an issue was identified relating to the requested change in land use from industrial uses to commercial uses. The subject lands are considered 'Employment Lands' (industrial) in the Growth Plan for the Greater Golden Horseshoe (Growth Plan), and changing the use of the lands from an employment use to a non-employment use (commercial) is considered a 'conversion' of employment lands, which was not supported by Planning Staff. The proposed use would be considered a major retail use in the Growth Plan. In accordance with the policies set out in the former Growth Plan 2017, this type of application could have only been considered through a Municipal Comprehensive Review (MCR) process, which is defined as "*a new official plan, or an official plan amendment, initiated by an upper- or single-tier municipality under Section 26 of the Planning Act that comprehensively applies the policies and schedules of the Growth Plan*".

The Planning Staff Report (found at the following link [CD2018-032](#)), indicated that due to the employment policies contained in the City's Official Plan, the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe, the applications could not be supported at that time. Planning Staff recommended deferral of the applications until the City had completed the Municipal Comprehensive Review process, and brought forward a new Official Plan that complies with the policies of the Growth Plan.

On March 6, 2018, Committee of the Whole – Community Development considered the applications by the Rice Group in the above referenced Report, and made recommendations to Council. Council passed a motion at their

meeting of March 27, 2018, and it was further amended at the June 26, 2018 meeting. Council's resolution in its entirety (as amended) is as follows:

*Official Plan Amendment OP-01-16 and Zoning By-law Amendment PZ-03-16
(8-10 Craig Street)*

- A. THAT the proposed development submitted by the applicant, the Rice Group, for 8-10 Craig Street for a retail warehouse and accessory gas bar BE SUPPORTED in principle; and*
- B. THAT Staff BE DIRECTED to initiate and process an application to amend the Official Plan pursuant to Section 26 of the Planning Act to update the employment land policies contained therein to bring said policies into conformity with provincial policy and applicable plans, giving due consideration to permitting the use of lands located at 8-10 Craig Street for a retail warehouse and associated gas bar; and if deemed necessary, retain external experts to prepare the necessary reports and analysis and provide further recommendations; and*
- C. THAT Zoning By-law Amendment Application PZ-03-16 submitted by Rice Group, affecting lands located at 8-10 Craig Street, to change the zoning of the subject lands from "General Industrial Zone (M2)" to "General Commercial Area – Exception Zone (C8-XX)" to permit the development of the property for a retail warehouse and associated gas bar, BE DEFERRED until the application to amend the Official Plan, pursuant to section 26 of the Planning Act is brought forward to Council for consideration; and*
- D. THAT the above noted recommendations BE CONDITIONAL upon receipt of confirmation from the applicants, the Rice Group, that their application to amend the Official Plan (File No. OP-01-16) affecting lands located at 8-10 Craig Street has been withdrawn, or confirmation that a letter of withdrawal with respect to said application has been received by the City Solicitor to be held in escrow pending the coming into force of the s.26 amendment, or on such other terms as may be agreeable to the City Solicitor and the solicitors for the Rice Group; and*
- E. THAT the Director of Engineering Services BE DIRECTED to conduct an Area Wide Transportation Study for the Wayne Gretzky Parkway corridor (from Lynden Road to Henry Street), considering growth in transportation demands from proposed developments that do not have an approved zoning by-law for the proposal and network improvements within a 10 year horizon, as identified in the City's TMP Update, at a cost of \$250,000.00,*

to be funded from the Corporate Contingency Reserve (RF0554) and Staff develop a means to recover the costs from the Rice Group; and

F. THAT a Noise Impact Study for the new volume of traffic this project will cause on West Street where homes front and back onto West Street BE UNDERTAKEN; and

G. THAT Pursuant to Sections 17(23) and 34(18) of the Planning Act, R.S.O. 1990, c.P.13. the following statement SHALL BE INCLUDED in the Notices 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 Sections 7.2 and 9.0 of Report CD2018-032.”

H. THAT Staff BE DIRECTED to expedite the s.26 (Planning Act) amendment for the property at 8-10 Craig Street to designate the property to permit the proposed development and that such amendment be brought forward to Council at the earliest available opportunity following the provision of all required, statutory notices.

On July 23, 2018, the City received a letter from the applicant's solicitor withdrawing their Official Plan Amendment application, to be held in escrow pending the successful Adoption of a Section 26 Official Plan Amendment (see **Appendix B**). In accordance with the direction of Council dated June 26, 2018 (Clauses B and H), Planning Staff initiated an application to amend the Official Plan pursuant to Section 26 of the *Planning Act, R.S.O. 1990*. This amendment was adopted by Council as Official Plan Amendment No. 206 on September 18, 2018, and approved by the Minister of Municipal Affairs and Housing on May 16, 2019 (**Appendix C**). The approved Official Plan Amendment designated the lands as “New Format Commercial Area” with a Modified Policy Area 129 that permits a retail warehouse (containing a tire station, propane station, and seasonal centre) with a maximum gross floor area of 15,050.0 m², an accessory gas bar and other non-food store retail space with a maximum gross floor area of 2,600 m².

Subsequent to the approval of the Official Plan Amendment, the applicant sold the property to Upfield Canada Inc., a manufacturer of plant-based spreads and vegan cheese who is expanding its Canadian operations on the subject lands. This is an industrial use, which is permitted under the current zoning, and as such the applicant submitted a letter withdrawing their Zoning By-law Amendment application (**Appendix D**). The subject lands remain zoned as “General Industrial Zone (M2)”. The new Official Plan which was considered by

Committee of the Whole on November 19, 2020, designates these lands as “Prestige Employment”. At the time the draft Official Plan was presented to Committee of the Whole at the statutory meeting in November, Planning Staff were aware that these lands were to be retained for employment uses. The Prestige Employment designation permits manufacturing and/or research and development facilities, warehousing and distribution centres, office uses, and limited sales of products manufactured, processed or assembled on the premises. The “General Industrial Zone (M2)” is in conformity with the designation in the current Official Plan as well as the proposed “Prestige Employment” designation set out in the new Official Plan.

As a result of the withdrawal of the applications for Official Plan Amendment and Zoning By-law Amendment, clauses C and F no longer apply. Clauses A, B, D, G and H as noted above have been acted upon and are complete. The remaining item that requires Council consideration and further direction is as follows:

THAT the Director of Engineering Services BE DIRECTED to conduct an Area Wide Transportation Study for the Wayne Gretzky Parkway corridor (from Lynden Road to Henry Street), considering growth in transportation demands from proposed developments that do not have an approved zoning by-law for the proposal and network improvements within a 10 year horizon, as identified in the City’s TMP Update, at a cost of \$250,000.00, to be funded from the Corporate Contingency Reserve (RF0554) and Staff develop a means to recover the costs from the Rice Group.

6.0 Corporate Policy Context

6.1 2020 Transportation Master Plan Update

The 2014 Transportation Master Plan (TMP) identified the King George Road and Wayne Gretzky Parkway interchanges as the main accesses in and out of the City from Highway 403. As a result of the recommendations from the 2014 TMP, Wayne Gretzky Parkway was identified in the 10 Year Capital Plan as one of the roads requiring improvements to take place scheduled for 2023 to 2027, at a projected cost of \$30,000,000.

In 2017, Brantford City Council approved the review of the 2014 Transportation Master Plan (TMP), to occur at the same time as the review of the City’s Master Servicing Plan and the City’s Official Plan. The update to the Transportation Master Plan includes the Boundary Expansion Lands that were transferred from

Brant County to the City on January 1, 2017. The recommendations from the Updated TMP (Report 2020-427 “2020 Transportation Master Plan Update-Final”) were approved by Council on October 27, 2020. One of the recommendations from this study is to increase the capacity of Wayne Gretzky Parkway from 4 lanes to 6 lanes between Henry Street and Highway 403, to meet the demands related to development growth in this corridor as identified in the Official Plan. The projected costs and timing of this widening may also be adjusted as a result of further study through an Environmental Assessment which is scheduled to take place within the next five years.

It was recognized that the proposed redevelopment of 8-10 Craig Street for retail warehouse uses would require improvements to Wayne Gretzky Parkway in the vicinity of Highway 403 that have not been forecasted within the first 10 years of the Transportation Master Plan. The currently approved 2020 Transportation Master Plan Update identifies Wayne Gretzky Parkway as a major arterial road designated to provide capacity for intra-municipal and inter-regional traffic. It is proposed to be widened from four to six lanes from Henry Street to Highway 403 between 2032 and 2041 (based on the current zoning and land use forecasts applied). Further widenings through the Highway 403 interchange and northward to Lynden Road are not necessary for the 20 year growth forecast.

7.0 Input from Other Sources

7.1 Public Works

The previous resolution of Council surrounding 8-10 Craig Street allocated \$250,000 to conduct an Area Wide Transportation Study for Wayne Gretzky Parkway. The Public Works Commission has indicated that this funding is no longer required for this purpose and instead this transportation work could be undertaken as part of the Environmental Assessment for the Wayne Gretzky Parkway improvements. The funding has already been transferred from the Corporate Contingency Reserve (RF0554) to the Feasibility Study for Wayne Gretzky Parkway (TS1805) in order to fund the Area Wide Transportation Study per the approved resolution of Council. The Public Works Department recommends that due to the withdrawal of the related applications, the transportation study should be conducted at the same time as the Municipal Class Environmental Assessment study instead.

8.0 Analysis

As a result of the withdrawal of the applications to amend the Official Plan and Zoning By-law 160-90, the recommendations no longer apply or have already been completed.

With respect to Recommendation E, subsequent to the June 26, 2018 Council meeting, \$250,000 was transferred from the Corporate Contingency Reserve (RF0554) to the Feasibility Study for Wayne Gretzky Parkway (TS1805) account to fund the Area Wide Transportation Study for Wayne Gretzky Parkway. Public Works Staff is requesting that the transportation study be deferred and conducted as part of the Municipal Class Environmental Assessment Study for Wayne Gretzky Parkway that is planned for 2022. This project will investigate the future transportation needs considering growth in transportation demands from proposed developments and network improvements within a 10 year horizon, as identified in the City's 2020 TMP Update, and the Municipal Class Environmental Assessment for improvement to the Wayne Gretzky Parkway and other transportation network improvements necessary to accommodate forecasted growth. Public Works Staff is requesting that the transferred funds be returned to the reserve account, due to the withdrawal of the applications to amend the Official Plan and Zoning By-law.

9.0 Financial Implications

There are no direct Municipal financial implications as a result of the withdrawal of the applications to amend the Official Plan and Zoning By-law. However, given the withdrawal of the applications, there is no longer the ability to recoup the costs for the Area Wide Transportation Study for Wayne Gretzky Parkway from the owners of 8-10 Craig Street as originally directed by Council. Therefore the entire funding for the study will be the responsibility of the City. As outlined in this Report, Public Works Staff advise that there is still a need to conduct a transportation studies in conjunction with the Municipal Class Environmental Assessment study for improvements to the Wayne Gretzky Parkway, however they recommend that the \$250,000 already transferred to the Feasibility Study for Wayne Gretzky Parkway (TS1805) from the Corporate Contingency Reserve (RF0554) be returned to that that account, and the these transportation studies be conducted with the future Municipal Class Environmental Assessment.

10.0 Conclusion

Based on the withdrawal of both the Official Plan Amendment (OP-01-16) and the Zoning By-law Amendment (PZ-03-16) applications, Clauses C and F no longer apply and Council direction ceases. The items contained in Recommendations A, B, D, G and H have already been addressed, and therefore no action is required with respect to these items.

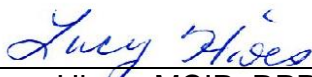
With respect to Recommendation E, Public Works Staff is requesting that the \$250,000 allocated to the Area Wide Transportation Study for Wayne Gretzky Parkway be returned to the Corporate Contingency Reserve (RF0554) and that the capital project Feasibility Study for Wayne Gretzky Parkway (TS1805) be closed.



K.C. Pongracz, MCIP, RPP
Senior Planner
Community Development



Joe Muto, MCIP, RPP
Manager of Development Planning
Community Development



Lucy Hives, MCIP, RPP
Director of Planning
Community Development



Paul Moore, MCIP, RPP
General Manager
Community Development

In adopting this report, is a by-law or agreement required? If so, it should be referenced in the recommendation section.

By-law required ☐ yes ☒ no

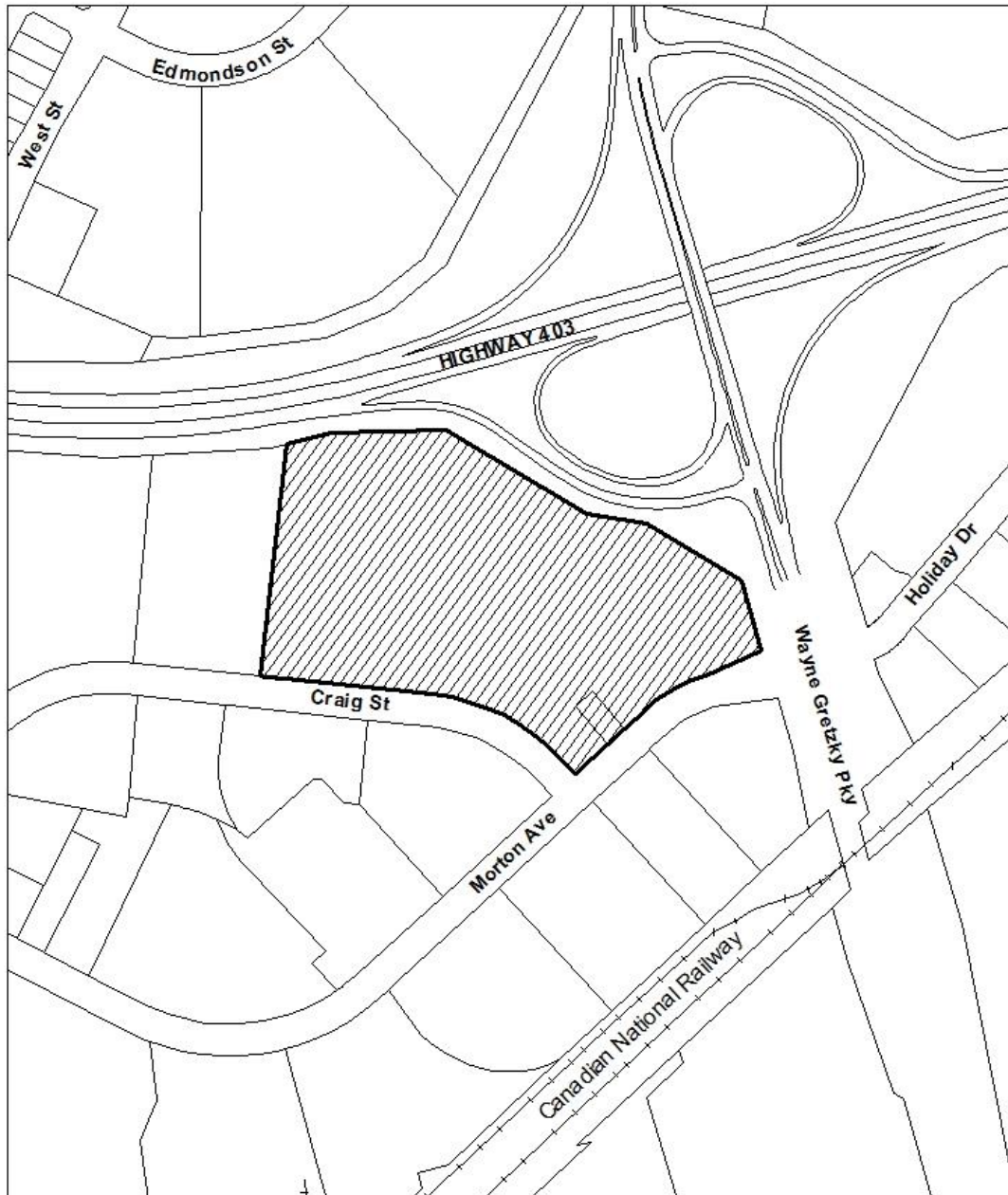
Agreement(s) or other documents to be signed by Mayor and/or City Clerk ☐ yes ☒ no

Is the necessary by-law or agreement being sent concurrently to Council? ☐ yes ☒ no

Appendix A – Location Map

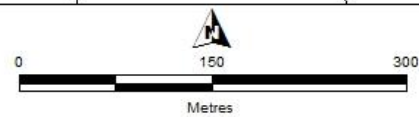
LOCATION MAP

Application PZ-03-16 & OP-01-16



LEGEND

 SUBJECT LAND (8-10 Craig Street)



Appendix B – Withdrawal of Official Plan Amendment Letter



IRA T. KAGAN
Tel. 416.368.2100 x 226
Direct Fax: 416.324.4224
ikagan@ksllp.ca

File: 15190

July 3, 2018

By email

Ms. Heide DeVries, City Solicitor
The Corporation of the City of Brantford
100 Wellington Square
Brantford, Ontario
N3T 2M3

Dear Ms. DeVries:

**Re: Proposed redevelopment of 8-10 Craig Street, Brantford
Official Plan Amendment (OP-01-16) and Zoning By-law Amendment (PZ-03-16)**

We the solicitors to Brantford Retail GP Inc. (Rice Commercial Group, "Rice"), the owner of the property located at 8-10 Craig Street, Brantford. In April 2016 our client filed the above-noted Official Plan Amendment and Zoning By-law Amendment to permit the development of a large format retail warehouse (Costco) together with related other retail buildings. The Official Plan Amendment application was made pursuant to s.17 of the Planning Act and the Zoning By-law Amendment application was made pursuant to s.34 of the Planning Act. Both applications were deemed complete in May 2016. The City has yet to render a decision on these applications and neither of them has been appealed to the Local Planning Appeal Tribunal.

By way of this letter please be advised that on behalf of my client we hereby withdraw the Official Plan Amendment application. We are not withdrawing the Zoning By-law Amendment application.

Thank you.

Yours very truly,

Ira T. Kagan

cc. Rice Commercial Group

Appendix C – Ministry of Municipal Affairs Approval of Section 26 Official Plan Amendment

**Ministry of
Municipal Affairs
and Housing**

Municipal Services Office
Western Ontario
2nd Floor
659 Exeter Road
London ON N6E 1L3
Tel: 519 873-4020
Toll Free: 1 800-265-4736
Fax: 519 873-4018

**Ministère des
Affaires municipales
et du Logement**

Bureau des services aux municipalités
de l'Ouest de l'Ontario
2^e étage
659 Exeter Road
London ON N6E 1L3
Tél. : 519 873-4020
Sans frais : 1 800-265-4736
Téléc. : 519 873-4018



May 16, 2019

Charlene Touzel
County Clerk
City Clerk/Director of Clerk's Services
100 Wellington Square
Brantford, Ontario N3T 5R7

Re: Official Plan Amendment Number 206
City of Brantford
MMAH File No. 29-OP-185966

Dear Ms. Touzel:

Please find attached a Notice of Decision regarding the above-noted matter.

If you have any questions regarding this matter, please feel free to call David Stubbs at 519-873-4031.

Sincerely,

A handwritten signature in black ink, appearing to read "Erick Boyd".

Erick Boyd
Manager (A) - Community Planning and Development

c.c. (e-mail) Paul Moore, City of Brantford
John Morrissey, Ministry of Transportation, London
All persons or bodies who requested notice (enclosed list)

File No.: 29-OP-185966
Municipality: City of Brantford
Subject Lands: 8-10 Craig Street, City of Brantford

Date of Decision: May 16, 2019
Date of Notice: May 16, 2019

NOTICE OF DECISION

**With respect to an Official Plan Amendment
Section 26 and subsection 17(34) of the Planning Act**

A decision was made on the date noted above to approve Official Plan Amendment 206 for the City of Brantford, adopted by By-law No. 140-2018, subject to one (1) modification.

Purpose and Effect of the Official Plan Amendment

The purpose of Official Plan Amendment 206 to the City of Brantford is to re-designate lands located at 8-10 Craig Street to permit a retail warehouse and associated gas bar. A copy of the decision is attached.

Decision Final

Pursuant to subsections 17 (36.5) and (38.1) of the *Planning Act*, this decision is final and not subject to appeal.

Other Related Applications:

N/A

Getting Additional Information

Additional information is available during regular office hours at the Ministry of Municipal Affairs and Housing at the address noted below or from The City of Brantford.

Ministry of Municipal Affairs and Housing
Municipal Services Office - West
659 Exeter Road, 2nd floor
London, Ontario N6E 1L3

Inquiries can be directed to the attention of David Stubbs, Planner, MSO-West.

Tele: (519) 873-4031
Toll Free: (800) 265-4736
Fax: (519) 873-4018

DECISION

**With respect to Official Plan Amendment Number 206
of the City of Brantford
Section 26 and subsection 17(34) of the *Planning Act***

I hereby modify, and approve as modified, Amendment number 206 to the City of Brantford Official Plan, adopted by By-Law 140-2018.

1. Policy 7.8.129 – “Area 129 – 8-10 Craig Street” is modified by adding the following new subsections:
 - .3 Other non-food store retail space with a maximum gross floor area of 2,600 m²
 - .4 Traffic impacts will be addressed through the Ontario Ministry of Transportation process for permits

Dated at Toronto this 16th day of May, 2019



Hannah Evans
Assistant Deputy Minister (Acting)
Municipal Services Division
Ministry of Municipal Affairs and Housing

Appendix D – Withdrawal of Zoning By-law Amendment Letter



City of Brantford
100 Wellington Square
Brantford, Ontario N3T 2M3

Attention: K.C. (Karen) Pongracz, MCIP, RPP
Senior Planner, Development Planning

RE: **8 – 10 Craig St. File No. PZ-03-16 , ZBA-03-16**

Dear Ms. Pongracz,

Please accept this letter as our formal request to withdraw the above captioned Zoning By-law Amendment application.

Thank you.

A handwritten signature in blue ink, appearing to read "Michael Rice", with a stylized, flowing script.

Michael Rice
President

cc. Ira Kagan, Kagan Shastri
Ryan Guetter, Weston Consulting