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Date December 8, 2020 **Report No.** 2020-402

To Chair and Members
Committee of the Whole

From Paul Moore, General Manager
Community Development

1.0 Type of Report

Consent Item ☐
Item For Consideration ☒

2.0 Topic **Application for Zoning By-law Amendment (Removal of a Holding “H” Provision) – PZ-07-20 – for the northwest portion of the lands at 41 Johnson Road [Financial Impact – None] (2020-402)**

3.0 Recommendation

THAT Zoning By-law Amendment application, PZ-07-20, submitted by Cohoon Engineering Ltd. on behalf of David Hind, affecting the northwest portion of the lands located at 41 Johnson Road, to remove the Holding “H” provision BE APPROVED for the reasons set out in Report 2020-402.

4.0 Purpose

An application has been received to amend the City of Brantford Zoning By-law 160-90 to remove the Holding “H” provision from a portion of the lands municipally known as 41 Johnson Road and currently zoned “Holding – Residential Type 1B Special Exception 13 Zone (H-R1B-13)”. The subject lands are located on the northeast corner of the property and have an area of 840 m². A map showing the location of the subject lands is attached as **Appendix A**.

The applicant is proposing to develop these lands for a single detached dwelling.

5.0 Background

5.1 Site Features and Surrounding Land Use

The subject lands are located on the southeast side of Johnson Road. The subject lands were severed in June 2020 (related File No. B05/2020) and have a lot width of 23 m and an area of 840 m². The subject lands are currently vacant and they are intended to be developed for a new single detached dwelling. The retained lands have an area of 1.36 hectares and they contain a single detached dwelling, and two accessory buildings. A road widening is required to be taken as a condition of the consent which is shown on the site plan, attached as **Appendix B**. The retained lands also contain mature vegetation which acts as a buffer to the adjacent properties and the rail line. Northeast of the site is a residential subdivision consisting of single detached dwellings, and to the north and west of the site are single detached dwellings with a few small industrial businesses along Johnson Road. Southeast of the site is the CN rail corridor, and beyond that are industrial and residential uses which are located in the County of Brant. An aerial photo and a site photograph are attached as **Appendices C and D**.

5.2 Description of the Proposal

The applicant is proposing to remove the Holding “H” provision from the subject lands to permit the construction of a single detached dwelling. As background, on June 17, 2020, the Committee of Adjustment provisionally approved the creation of the subject lot (Application B05/2020) and a copy of the Decision of the Committee is attached as **Appendix E**. The applicant is currently working on satisfying the conditions of consent, and Condition No 5 requires: *“Receipt of confirmation that Zoning By-law Amendment PZ-07-20 to remove the Holding Provision from the subject lands is in full force and effect.”* The applicant currently owns both the retained and severed parcels and intends to reside on the severed lands once the new dwelling unit is constructed. The subject lands are also subject to Site Plan Control Application SPC-08-20, which cannot be finalized until the Holding “H” is removed by Council.

6.0 Policy Context

6.1 Provincial Policy

This application 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 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 are of the opinion that this application to remove the Holding provision is consistent with the direction set out in the PPS and conforms to the Growth Plan as it will facilitate the development of the lands for a residential use in accordance with the City of Brantford's Official Plan and Zoning By-law 160-90.

7.0 Input From Other Sources

7.1 Technical Liaison Response

This application was circulated to internal departments and external agencies for review, and no adverse comments or objections were received. Development Engineering provided comments regarding the Noise and Vibration Study prepared by J.H. Cohoon Engineering Limited, dated September 22, 2020, which have since been addressed. CN Rail provided comments which are attached as **Appendix F**. This application was also reviewed by internal departments and external agencies within the context of related Consent application B05/2020 and Site Plan Control application SPC-08-20. There were no objections or concerns noted and all technical comments received will be addressed through fulfillment of the applicable conditions of Consent and implemented through the Site Plan Control process.

7.2 Public Response

Pursuant to Section 36(4) of the *Planning Act*, a public meeting is not required for the removal of a Holding "H" Provision.

7.3 Grand River Notification Area Input

Notice was issued as part of the Grand River Notification Agreement to Six Nations of the Grand River and the Mississaugas of the Credit First Nation, with no response received to date.

8.0 Analysis

8.1 City of Brantford Official Plan

Existing Land Use Designation: “Residential Area – Low Density” & “Modified Policy Area 44”

The subject lands are designated “Residential Area – Low Density” which permits single detached dwellings and the creation of new lots for residential uses (see **Appendix G**). The application facilitates the development of one single detached dwelling lot in an Official Plan Designation that allows for the use.

Modified Policy Area 44 (MPA 44) also applies to the subject lands. MPA 44 requires that applications for development be in accordance with a number of policies which are discussed below:

- .1 All new developments shall be serviced by municipal water and sanitary sewer to the satisfaction of the City and all other appropriate approval authorities.*

Johnson Road has full services available and the subject lands can be municipally serviced.

- .2 Any existing or approved development may proceed on an interim basis, using private individual sewage disposal systems, to the satisfaction of the City, and shall connect to the municipal sanitary sewer system when extended to the area.*

This is not applicable, as full municipal services are available. The proposed dwelling will be connected to municipal services.

- .3 The subdivision of land shall occur through the Draft Plan of Subdivision process, except in infill situations where land severances may be considered.*

Committee of Adjustment was of the opinion that the creation of this one residential lot through the consent to sever process was appropriate and concurred with Planning Staff's recommendation to approve the application. It creates one infill lot which exceeds the minimum regulations set out in the Zoning By-law.

- .4 All proposed plans of subdivision shall be accompanied by a Noise Study assessing the impact of traffic and railway-generated noise on the proposal. Such studies shall be prepared by a qualified professional, in accordance with Section 10.5 – Noise and Vibration Control, and shall specify the necessary mitigation measures to the satisfaction of the City and all other appropriate approval authorities, in consultation with the appropriate railway companies.*

A Noise and Vibration Study, prepared by J.H. Cohoon Engineering Limited, dated September 22, 2020, was submitted as part of the application to remove the Holding "H" provision. This Study was circulated to CN Rail who requested specific building standards, which will be addressed through Site Plan Control. The Study was also circulated to Development Engineering Staff. Engineering Staff are satisfied with the Noise and Vibration Study and do not object to the removal of the Holding "H" provision.

- .5 Due to the proximity of residentially designated lands to areas comprising existing and future industrial uses, appropriate mitigative measures will be required in accordance with the provisions of Section 10.6 - Buffering, and in consultation with the City and all other appropriate approval authorities.*

Through Staff's review of this application to remove the Holding "H", the consent application, and the site plan control application; it has been determined that the subject lands are appropriately buffered from surrounding industrial uses. In Planning Staff's opinion, the ample amount of existing vegetation around the subject lands provides an appropriate natural buffer, and the 185 metre distance to the closest industrial uses located south, provides adequate separation between the residential and industrial uses to disperse potential noise and odour impacts. Additional landscaping will be required to assist with buffering; this will be addressed through the Site Plan Control process.

Additionally a Land Use Memo, prepared by J.H. Cohoon Engineering Limited, dated February 21, 2020 was submitted as part of the consent

application that addressed the proximity of industrial uses through the provincial “*D6 Guidelines: Compatibility between Industrial facilities and Sensitive Land Uses*”. Planning Staff are of the opinion that the memo addresses the separation distances to industrial uses and that the proposed single detached dwelling can be appropriately located without any negative impact.

- .6 *Applications for development which either contain or abut any regulated tributary shall include a detailed report which shall: delineate precisely the location of the tributary and its regulated floodplain in relation to the development, identify the relative values and merits of this natural feature, assess the ability to maintain and manage this feature in an urban setting, document the compatibility of the proposed development with the tributary including mitigating measures such as setbacks and special construction techniques and show how the tributary shall be maintained to the satisfaction of the City, the Grand River Conservation Authority and all other appropriate approval authorities.*

The subject lands are not located within the Grand River Conservation Authority regulated area, and are not within a regulated tributary.

- .7 *In support of any development proposal, environmental and arborist reports will be required to identify features and trees most suitable and desirable for protection. These reports shall describe measures which must be implemented.*

There are a number of trees on the subject land, all of which are proposed to be retained. Additionally, an Arborist Report was required as a condition of the consent application. This report must be prepared by a qualified professional identifying all existing trees, their type, size, condition and any tree species of provincial significance. It will also need to address the trees proposed to be removed and retained, and the methods to be used to ensure preservation of the trees to be retained on the severed parcel. Although the Arborist Report has not been finalized, through the Site Plan Control process, the current site plan does not identify the removal of any trees, as the applicant intends to preserve and protect the trees that currently exist on site.

For the reasons detailed above, Planning Staff are of the opinion that the application to remove the Holding “H” provision conforms to the policies of the Official Plan.

8.2 City of Brantford Zoning By-law 160-90

Existing Zoning: “Holding – Residential Type 1B – Special Exception 13 (H-R1B-13) Zone”

Proposed Zoning: “Residential Type 1B – Special Exception 13 (R1B-13) Zone”

The subject lands are zoned “Holding - Residential Type 1B – Special Exception 13 (H-R1B-13) Zone” as seen in **Appendix H**. The underlying R1B Zone permits single detached dwellings with a minimum lot area of 450 m², and a minimum lot width of 15 m. The Special Exception ‘13’ that applies to the lands allows for uses permitted in the R1B Zone, including uses existing at the date of the passing of the By-law, subject to the development standards that existed at that time. The subject lands are currently vacant and the proposed lot has a lot width of 23 m and a lot area of 840 m² which exceeds the minimum requirements of Zoning By-law 160-90. Any new development on the subject lands, including the construction of a new single detached dwelling will be in conformity with the regulations set out in the Zoning By-law.

Section 4.1.7 of the Zoning By-law outlines where the Zone symbol is preceded by the letter "H", the lands shall not be developed for the uses permitted in that Zone until a By-law has been adopted by Council to remove the "H".

In this particular case, the removal of the Holding “H” provision (**Appendix I**) will allow for the construction of a single detached dwelling on the proposed lot in accordance with the current zoning. The Holding “H” provision was placed on the lands due to the proximity of the rail corridor. The Noise and Vibration Study that was submitted as part of the subject application confirms that there are no major concerns with noise and vibration for the proposed development. It has been recommended that the proposed dwelling unit have air-conditioning and that warning clauses be included in offers and agreements of Purchase and Sale. Further, the report identified that the plans submitted for Building Permit must be reviewed by a qualified Acoustical Engineer at the expense of the applicant. An undertaking has been received from the applicant stating

that the warning clauses will be included in any future offers and agreements of Purchase and Sale. The requirement for Building Permit plans to be reviewed by an Acoustical Engineer will be addressed in the final Site Plan Agreement.

In addition, Planning Staff are of the opinion that the development of the lands for one single detached dwelling will not adversely affect the orderly development of the retained lands at 41 Johnson Road should the lands be developed in the future. The retained lands have an area of 1.36 hectares and are also designated “Residential Area – Low Density” in the Official Plan and zoned “Holding – Residential Type 1B – Special Exception 13 (H-R1B-13) Zone”. The retained lands are large enough to accommodate future development with appropriate access to Johnson Road.

Given the above, Planning Staff is of the opinion that this application to remove the Holding “H” provision is appropriate.

9.0 Financial Implications

There are no direct Municipal financial implications respecting this application.

10.0 Conclusion

In Planning Staff’s opinion, this application to remove the Holding “H” provision from a portion of the lands located at 41 Johnson Road is consistent with the Provincial Policy Statement, and is in conformity with the Growth Plan and the City of Brantford Official Plan. The removal of the Holding provision will allow the subject lands to be developed for one single detached dwelling on full municipal services and in accordance with the regulations set out in Zoning By-law 160-90. Based on these considerations, Planning Staff is of the opinion that the application for Zoning By-law Amendment to remove the Holding “H” provision is appropriate and represents good planning.



Brynne O'Neill, MCIP, RPP
Development Planner
Development Planning
Community Development



Joe Muto, MCIP, RPP
Manager
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.

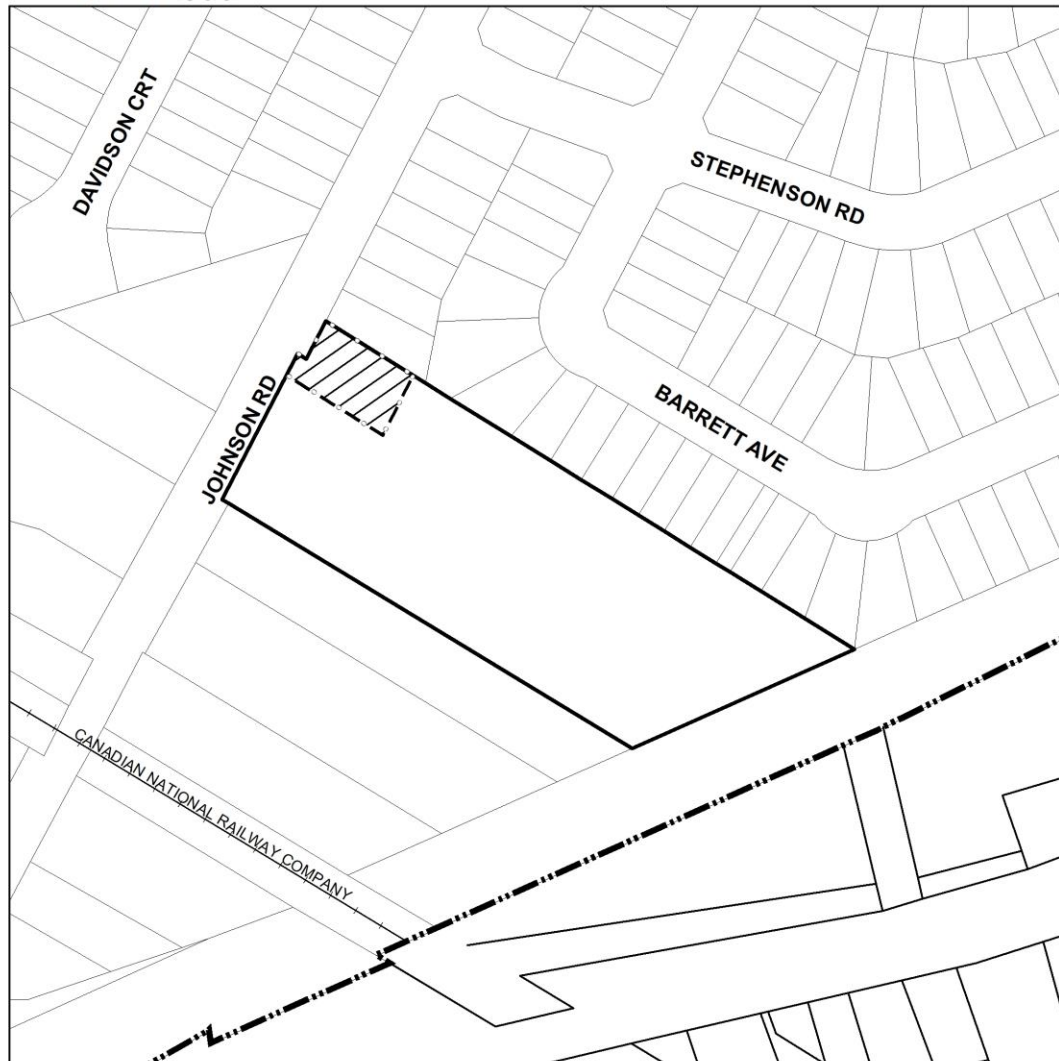
By-law required	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
Agreement(s) or other documents to be signed by Mayor and/or City Clerk	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no
Is the necessary by-law or agreement being sent concurrently to Council?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no

APPENDIX A


Location Map

LOCATION MAP

Application: PZ-07-20
41 Johnson Road

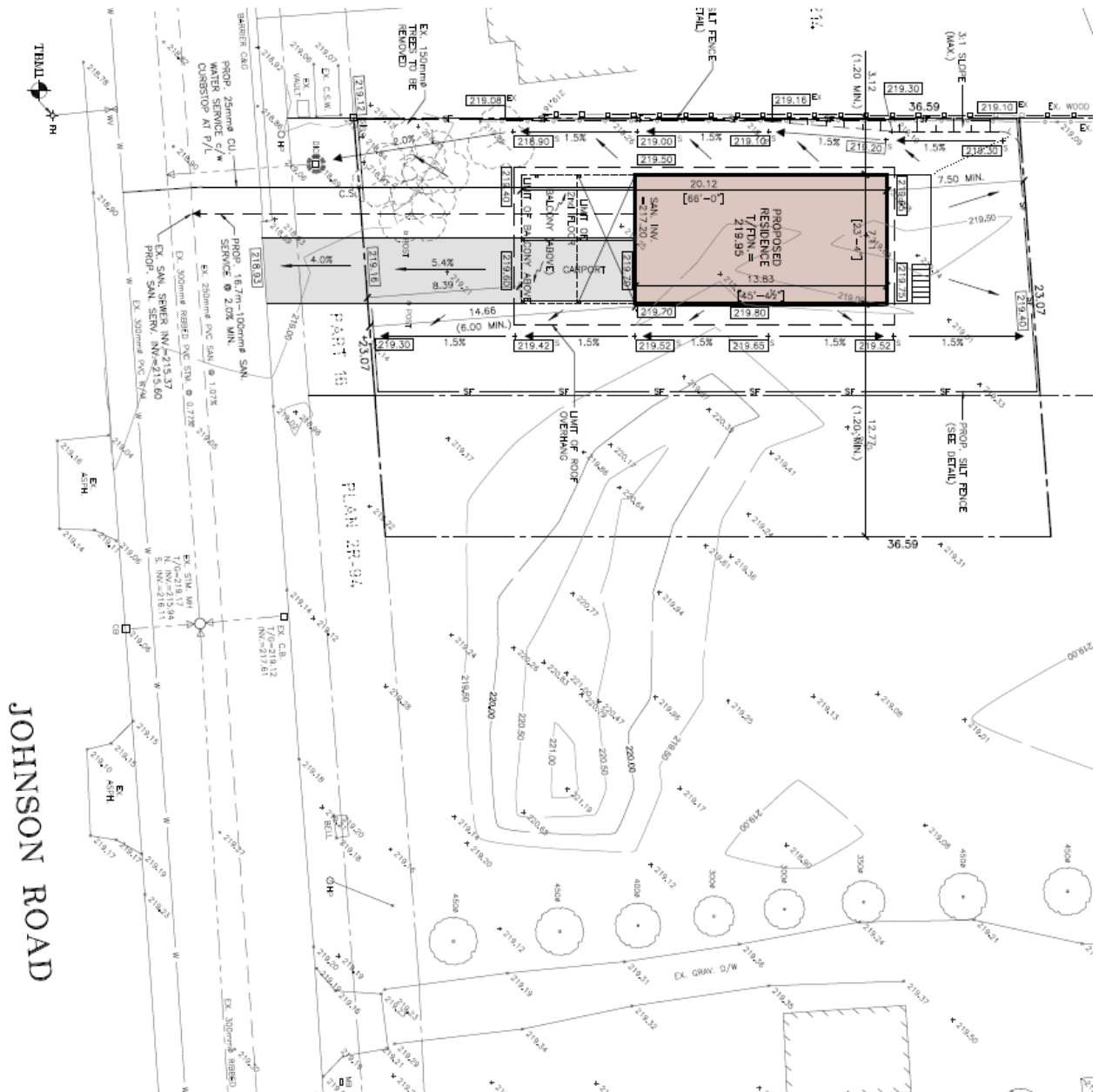


Legend

-  LANDS SUBJECT TO APPLICATION
-  SUBJECT LAND



APPENDIX B
Site Plan

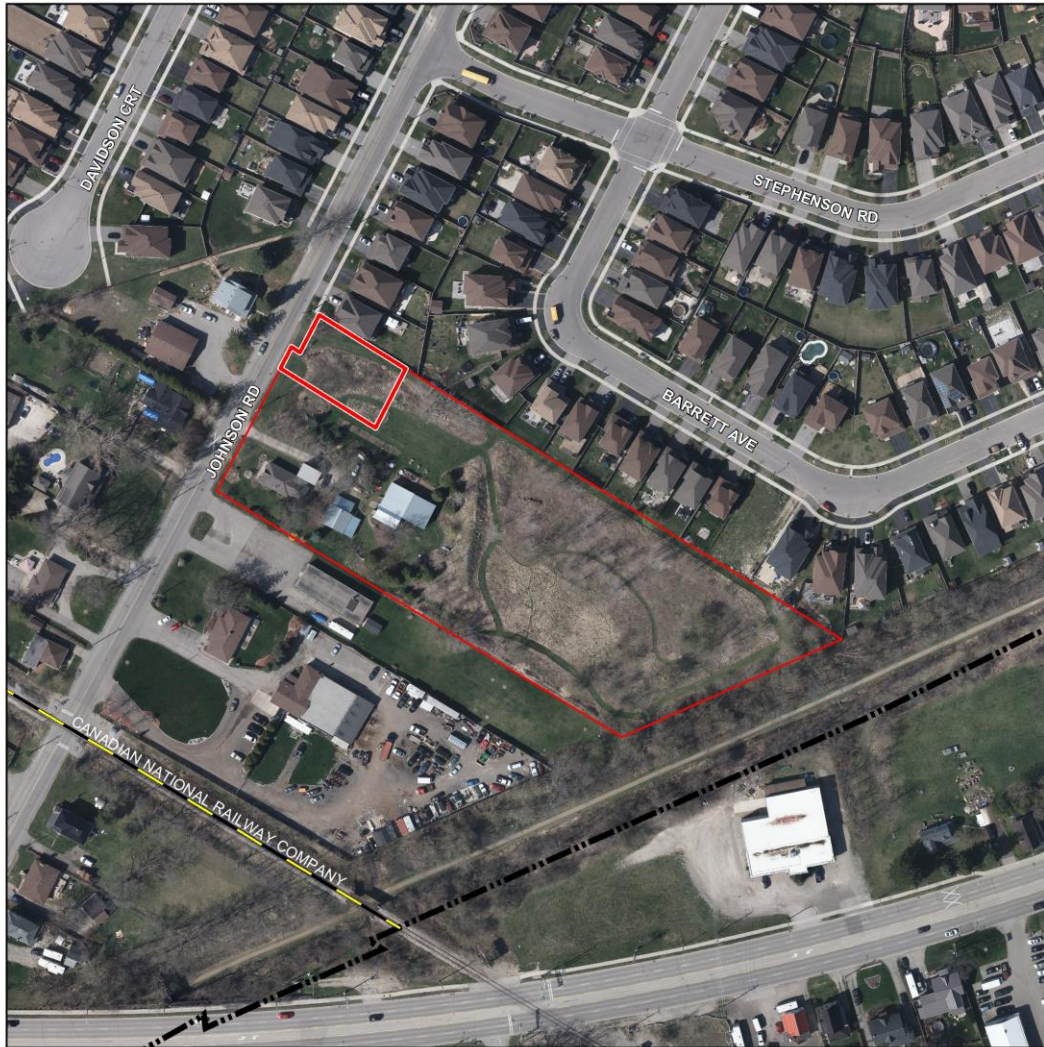


APPENDIX C

Aerial Map

AERIAL PHOTO

Application: PZ-07-20
41 Johnson Road



Legend

- LANDS SUBJECT TO APPLICATION
- SUBJECT LAND

Aerial Photo from Spring 2017



APPENDIX D

Site Photograph



Figure 1: Area subject to removal of Holding "H" provision

APPENDIX E
B05/2020 Decision



June 18, 2019

THE CORPORATION OF THE CITY OF BRANTFORD
CITY HALL - 100 WELLINGTON SQUARE - BRANTFORD - ON N3T 2M3
TELEPHONE 519-759-4150

COMMITTEE OF ADJUSTMENT
DECISION OF THE COMMITTEE

File Number: B05/2020
Related File Number: N/A
Address: 41 Johnson Road
Roll Number: 2906030019295000000
Applicant/Owner: David Hind
Agent: J.H. Cohoon Engineering Limited

IN THE MATTER OF AN APPLICATION FOR CONSENT MADE UNDER SECTION 53
OF THE PLANNING ACT, R.S.O. 1990, CHAPTER 13 as amended:

PROPOSAL:

A consent application has been received for the lands municipally addressed as 41 Johnson Road. The applicant is proposing to sever one new lot and retain the existing dwelling and remnant land. The proposed new lot dimensions will be as follows:

	Severed	Retained
Lot Frontage	23 m	74 m
Lot Depth	36.6 m	172 m
Lot Area	840 m ²	13,600 m ²

DECISION: PROVISIONAL APPROVAL

DATE: June 17, 2020

THAT Application B05/2020 to sever a parcel of land from the northeast corner of the lands municipally addressed as 41 Johnson Road having an area of 840 m² and to retain a parcel of land having a lot area of 1.36 ha BE APPROVED, 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 payment for cash-in-lieu of parkland. (Payment for cash-in-lieu of parkland is to be based on an opinion of value for the lands in accordance with City of Brantford By-law 50-2018)
4. 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*);
5. Receipt of confirmation that Zoning By-law Amendment PZ-07-20 to remove the Holding Provision from the subject lands is in full force and effect;
6. Receipt of confirmation from the Engineering Department indicating that their requirements have been satisfied concerning the driveway location;

7. Receipt of confirmation from the Engineering Department indicating that a civic address has been assigned to the severed parcel;
8. 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 City of Brantford;
9. Receipt of confirmation that an Arborist Report has been received, and approved to the satisfaction of the City of Brantford. This report must be prepared by a qualified professional identifying all existing trees, their type, size, condition and any tree species of provincial significance, those trees proposed to be removed and retained, and the methods to be used to ensure preservation of those trees to be retained, for the severed parcel;
10. 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); and,
11. That the above conditions be fulfilled and the Certificate of Official be issued on or before June 18, 2021, after which time the consent will lapse.

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; and,

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. 2020-249."

Original signed by D. Namisniak,
Chair

Original signed by V. Kershaw,
Member

Original signed by K. Brooks,
Member

Original signed by T. Gaskin,
Member

Original signed by G. Kempa,
Member

Original signed by L. Rynar,
Member

CERTIFICATION

I hereby certify that this is a true copy of the original document



Deputy Secretary-Treasurer

ADDITIONAL INFORMATION

If you require additional information regarding the application, please contact Sean House, Secretary-Treasurer, (519)759-4150 ext. 5761, shouse@brantford.ca or Alexandra Mathers, Deputy Secretary-Treasurer, (519)759-4150 ext.5440, amathers@brantford.ca.

APPEALS

Any person or public body may, not later than 20 days after the giving of notice of a decision under Section 53(17) or (24) of the Planning Act is completed, appeal the decision and/or any conditions imposed on a decision by the Committee of Adjustment, to the Local Planning Appeal Tribunal.

Only individuals, corporations and public bodies may appeal decisions in respect of applications for consent to the Local Planning Appeal Tribunal. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

The fee for an appeal to the Local Planning Appeal Tribunal is \$300.00 for the primary appeal and \$25.00 for each related appeal, by Certified Cheque or money order made payable to the "Minister of Finance". In addition you must complete an Appellant Form (A1). All notices of appeal shall be accompanied by a \$500.00 administrative fee made payable to the Corporation of the City of Brantford.

Notice of Changes

You will be entitled to the conditions of the provisional consent if you have either made a written request to be notified of the decisions to give or refuse to give provisional consent or make a written request to be notified of changes to the conditions of the provisional consent

The letter of appeal, Appellant Form (A1) and fee for appeal are to be filed with the following:

Secretary-Treasurer
Committee of Adjustment
100 Wellington Square
Brantford ON
N3T 2M3

If no appeal is filed by the date listed on the decision, the decision of the Committee of Adjustment is final.

For further information regarding the appeal process and the Local Planning Appeal Tribunal go to: <http://eto.gov.on.ca>.

The last date for filing a notice of appeal to the Local Planning Appeal Tribunal of this Decision is July 8, 2020

END OF DECISION

APPENDIX F

CN Rail Comments

Hi Brynne,

Thank you for circulating CN on the subject application.

As the site does not abut the railway corridor directly, attention to noise impacts and their mitigation will be the most important aspect from CN's perspective.

CN recommends that the following mitigation measures in the dwelling design and construction be implemented by municipality as a condition of approval:

- Provision for air-conditioning, allowing occupants to close windows during the warmer months;
- Exterior cladding facing the railway achieving a minimum STC rating of 54 or equivalent;
- Acoustically upgraded windows facing the railway providing a minimum STC rating of 33 or equivalent;
- Locating noise sensitive rooms away from the railway side;
- Noise barriers to protect outdoor living areas;

The following clause should be inserted in all development agreements, offers to purchase, and agreements of Purchase and Sale or lease of each dwelling unit within 300 metres of the railway right-of-way

"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."

We will be also seeking the registration of an environmental easement for operational noise and vibration emissions, in favor of CN. The proponent can reach out to me directly to satisfy this condition.

Sincerely,

Saadia Jamil

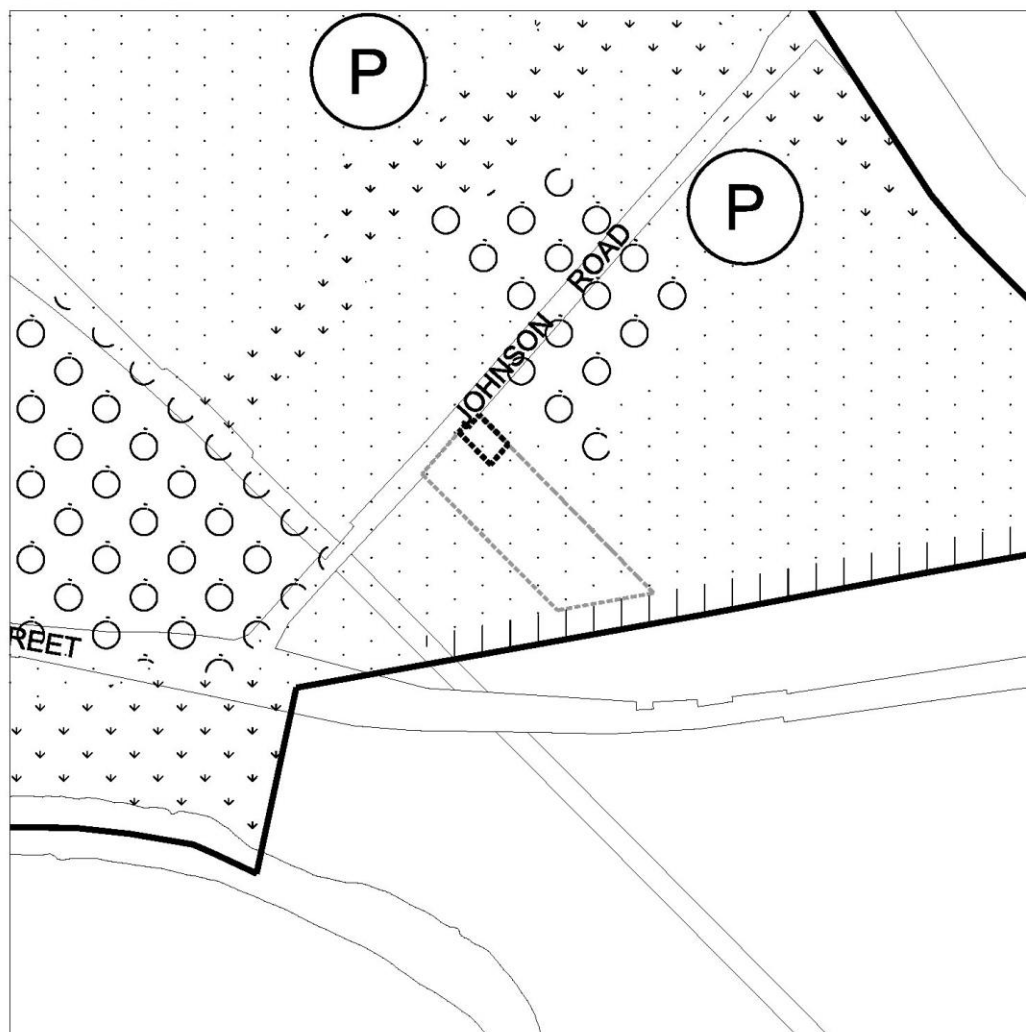
*Project Planner (CN Proximity)
Planning, Landscape Architecture and Urban Design
Urbanisme, architecture de paysage et design urbain*

APPENDIX G

Official Plan

OFFICIAL PLAN

Application: PZ-07-20
41 Johnson Road



LEGEND

SUBJECT LANDS	LANDS SUBJECT TO APPLICATION
LOW DENSITY RESIDENTIAL AREA	CORE COMMERCIAL AREA
MEDIUM DENSITY RESIDENTIAL AREA	COMMUNITY CENTRE COMMERCIAL AREA
HIGH DENSITY RESIDENTIAL AREA	GENERAL COMMERCIAL AREA
GENERAL INDUSTRIAL AREA	MIXED COMMERCIAL RESIDENTIAL AREA
MIXED INDUSTRIAL COMMERCIAL AREA	DISTRICT CENTRE COMMERCIAL AREA
BUSINESS PARK AREA	NEIGHBOURHOOD CENTRE COMMERCIAL AREA
MAJOR INSTITUTIONAL	HIGHWAY COMMERCIAL AREA
MAJOR OPEN SPACE	NEW FORMAT COMMERCIAL AREA

SUBJECT LANDS	LANDS SUBJECT TO APPLICATION
	CEMETERY
	ELEMENTARY SCHOOL
	FREEWAY
	LONG TERM CORRIDOR PROTECTION
	SPECIALIZED PARK and OPEN SPACE
	COMMUNITY PARK and OPEN SPACE
	NEIGHBOURHOOD PARK and OPEN SPACE

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

APPENDIX H

Existing Zoning

ZONING

Application: PZ-07-20
41 Johnson Road



Legend

- LANDS SUBJECT TO APPLICATION
- Subject Land
- Zone Boundary



0 50 100 Metres

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

- R1B Residential Type 1B (15 metre)
- R1C Residential Type 1C (12 metre)
- R4A Residential Medium Density Type A
- M2 General Industrial
- OS3 Open Space Restricted
- DC Development Constraint
- 3 Exception Number

APPENDIX I Proposed Zoning



Schedule 'A'

Legend



Area to be rezoned



Scale: N.T.S.

File Number: PZ-07-20

This is Schedule 'A' To Bylaw No. _____
to amend Zoning Bylaw No. 160-90
Schedule 'A' Map(s):

F-15, F-16.

Passed the ____ day of _____, 2020.

MAYOR

CLERK

