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Date January 14, 2021 **Report No.** 2021-76

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.	A08/2021
AGENT	MHBC Planning
APPLICANT	Telephone City Aggregates Inc. (TCA)
OWNER	James Dick Construction Ltd., TCA and 2006002 Ontario Inc.
LOCATION	Block 27 on Draft Plan of Subdivision 29T-18504

3.0 Recommendation

- A. THAT Application A08/2021 requesting relief from Zoning By-law 160-90 to permit interior side yards of 8.5 m (westerly side yard) and 10.0 m (easterly side yard), whereas 12 m is required; and a rear yard of 4.0 m, whereas 12 m is required, 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 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 2021-76”

4.0 Purpose and Description of Application

A minor variance application has been received for the lands known as Block 27 on draft Plan of Subdivision 29T-18504. The subject lands have currently not been assigned a municipal address, as until the Plan of Subdivision and corresponding Subdivision Agreement have been registered, the lots have not been created. The applicant is proposing to construct a sanitary pumping station to service the future industrial and residential plan of subdivision. In order to facilitate the development as proposed, the applicant is seeking relief from the following Sections of the Zoning By-law 160-90:

- Section 11.1.2.1.6.1 to permit a rear yard of 4.0 m, whereas 12.0 m is required; and,
- Section 11.1.2.1.6.7.1.2 to permit interior side yards of 8.5 m and 10 m, whereas 12 m is required.

As the Draft Plan of Subdivision has not yet been registered the proposed development currently meets the minimum requirements of the Zoning By-law for side and rear yards. However, once the Plan of Subdivision is registered and the lot lines are established, the side and rear yards will be deficient.

The property is designated “Residential Area – Low Density” in the City’s Official Plan and zoned Open Space Type 1 (OS1) Zone in Zoning By-law 160-90.

The subject lands have been subject to multiple planning applications, including Official Plan and Zoning By-law Amendment applications (File No. PZ-16-11, OP-06-18, PZ-17-18) and Draft Plan of Subdivision applications 29T-11505 and subsequent redline draft revision 29T-18504. The Draft Plan of Subdivision is in its final stages of review and it is anticipated that the Subdivision Agreements will be entered into in the near future. Once the Subdivision Agreement is entered into, a by-law will be brought forward to Council to remove the Holding “H” provision on the lands zoned for residential and industrial uses will go

forward to Council (File No. PZ-18-20). A Site Plan Control application (File No. SPC-09-20) for the sanitary pumping station was final approved on November 12, 2020. A location map, Draft Plan of Subdivision 29T-18504 and site plan are attached as **Appendices A, B and C**.

5.0 Site Features

The subject lands are located south of Hardy Road, east of Masters Lane and north of the Grand River, within the Draft Plan of Subdivision 29T-18504. The lands are currently vacant and were formerly used for a sand and gravel pit operation which was subject to three Ministry of Natural Resources and Forestry (MNRF) licenses (License Nos. 5523, 5624 and 5721) under the *Aggregate Resources Act*. The aggregate has now been extracted and the aggregate licenses have been surrendered. Rehabilitation of the lands is in progress in accordance with the Aggregate Licenses and will reflect the future use of the lands set out in the Draft Plans of Subdivision. The Draft Plan of Subdivision is in the final stages of review, and it is anticipated that the Subdivision Agreements will be entered into in the near future. Once the Draft Plan of Subdivision is developed, the subject property will be located on the south side of Stauffer Road and west of the stormwater management pond and northwest of the proposed neighbourhood park. The sanitary pumping station will service the future industrial and residential plans of subdivision. An aerial photo and site photographs are attached as **Appendices D and E**.

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 F and G**.

6.2 Public Response

Notice of public hearing was issued by personal mail (4 notices) and by posting a sign on-site. At the date of the preparation of this Report, one member of the public reached out to Planning Staff regarding the proposed pumping station and landscaping. Planning Staff provided that the proposed pumping station is a sanitary pumping station to service the proposed residential and industrial subdivisions and provided a copy of

the landscape plan. A copy of the email is provided as **Appendix H**. A map of the area of notification is included as **Appendix I** of this Report.

7.0 Planning Staff Comments and Conclusion

7.1 Provincial Policy Context

Application A08/2021 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 "Residential Area – Low Density" in the City's Official Plan (**Appendix J**). The "Residential Area – Low Density" designation permits a variety of low density dwelling types including single detached, semi-detached, duplex and triplex dwellings, and converted dwellings. Under Section 12.1.4 of the Official Plan, pumping stations and other public service and utility buildings are permitted in any land use designation in the City of Brantford. Modified Policy Area 130 also applies to a portion of the lands and permits street townhouse dwellings with a maximum of 8 dwelling units per block. The minor variance meets the intent of the Official Plan.

7.3 City of Brantford Zoning By-law 160-90

The subject lands are zoned "Open Space Type 1 (OS1) Zone" in Zoning By-law 160-90 (**Appendix K**). The OS1 Zone permits a variety of park related uses and all uses permitted in Section 6.1 of the Zoning By-law. Public utilities including sanitary pumping stations are included in Section 6.1 as permitted uses in all Zones. The sanitary pumping station as

proposed requires variances for the proposed side and rear yards. The subject lands comply with all other regulations of the By-law.

7.4 Planning Analysis

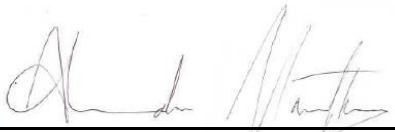
When evaluating the merits of a minor variance application, the Committee of Adjustment must be satisfied that the four tests of Section 45(1) of the *Planning Act* have been met. To be approved, a minor variance must be minor in nature, desirable for the appropriate development and use of the land, and the general intent and purpose of the Zoning By-law and Official Plan must be maintained.

The proposed reduced rear and side yards are considered minor in nature and appropriate use and development of the lands as it is not expected to have an adverse impact on the residential uses to the north, or the park to the southeast.


The intent of rear and side yards in the Open Space is to ensure that there is adequate rear and side yard area for additional landscaping to screen buildings from neighbouring properties. The proposed side yards are 8.5 m to the west and 10 m to the east and a rear yard of 4.0 m to the south. As provided for in the approved Site Plan, significant landscaping is proposed along the side yards and rear yard to provide additional screening of the proposed sanitary pumping station. Planning Staff are of the opinion that the proposed side and rear yards will not create a negative impact on the surrounding properties and that the general intent of the Zoning By-law and Official Plan is maintained.

7.5 Conclusion

A site visit was conducted on December 17, 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 construction of a sanitary pumping station which will service the planned industrial and residential subdivision. For the reasons mentioned above, the minor variance satisfies the criteria of Section 45(1) of the *Planning Act*, and Staff recommend that application A08/2021 be approved.



Prepared By: Alexandra Mathers
Development Planner
Prepared On: January 7, 2021

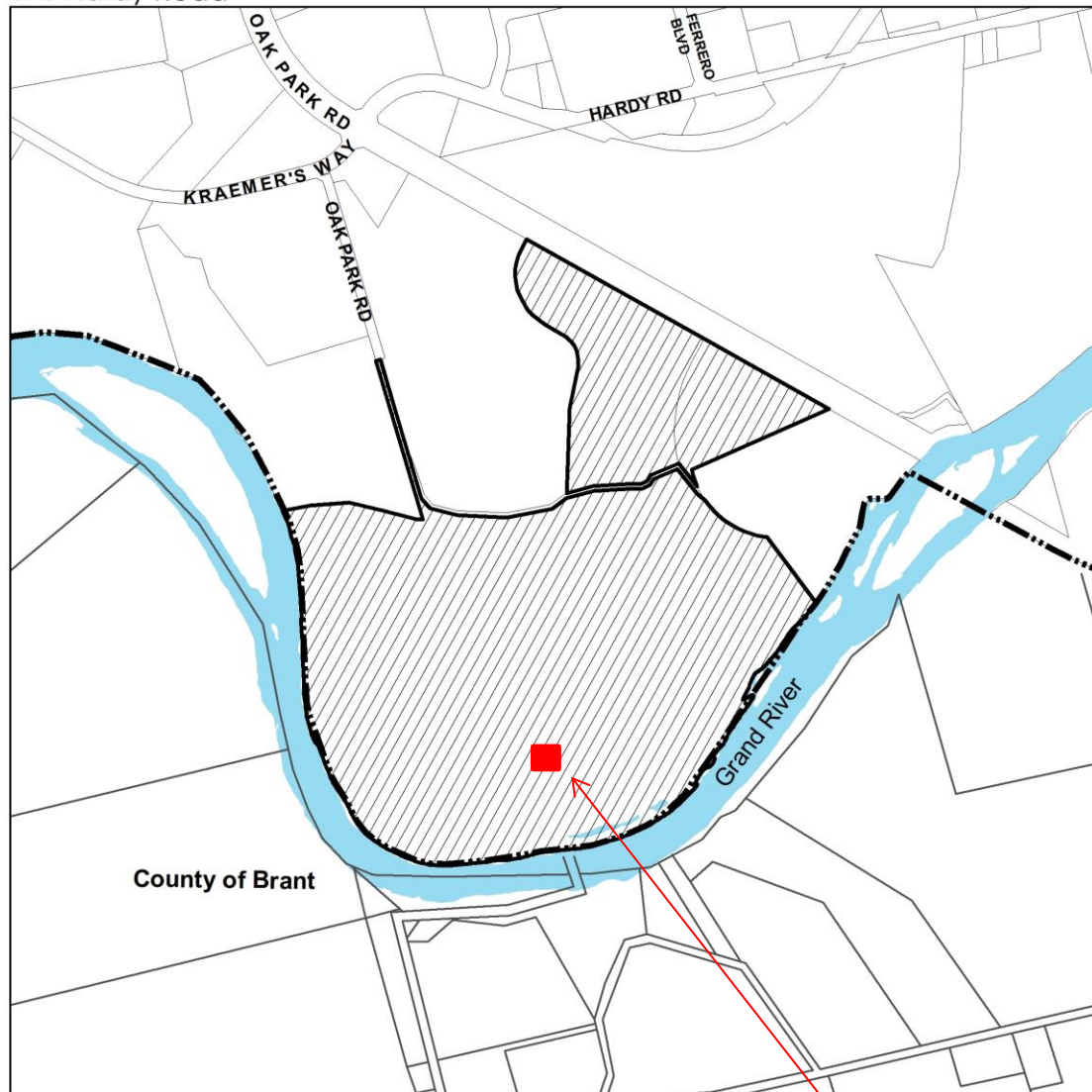


Reviewed By: Joe Muto, MCIP, RPP
Manager of Development Planning

Appendix A – Location Map

LOCATION MAP

Application: A08/2021
395 Hardy Road



Legend

 SUBJECT LAND

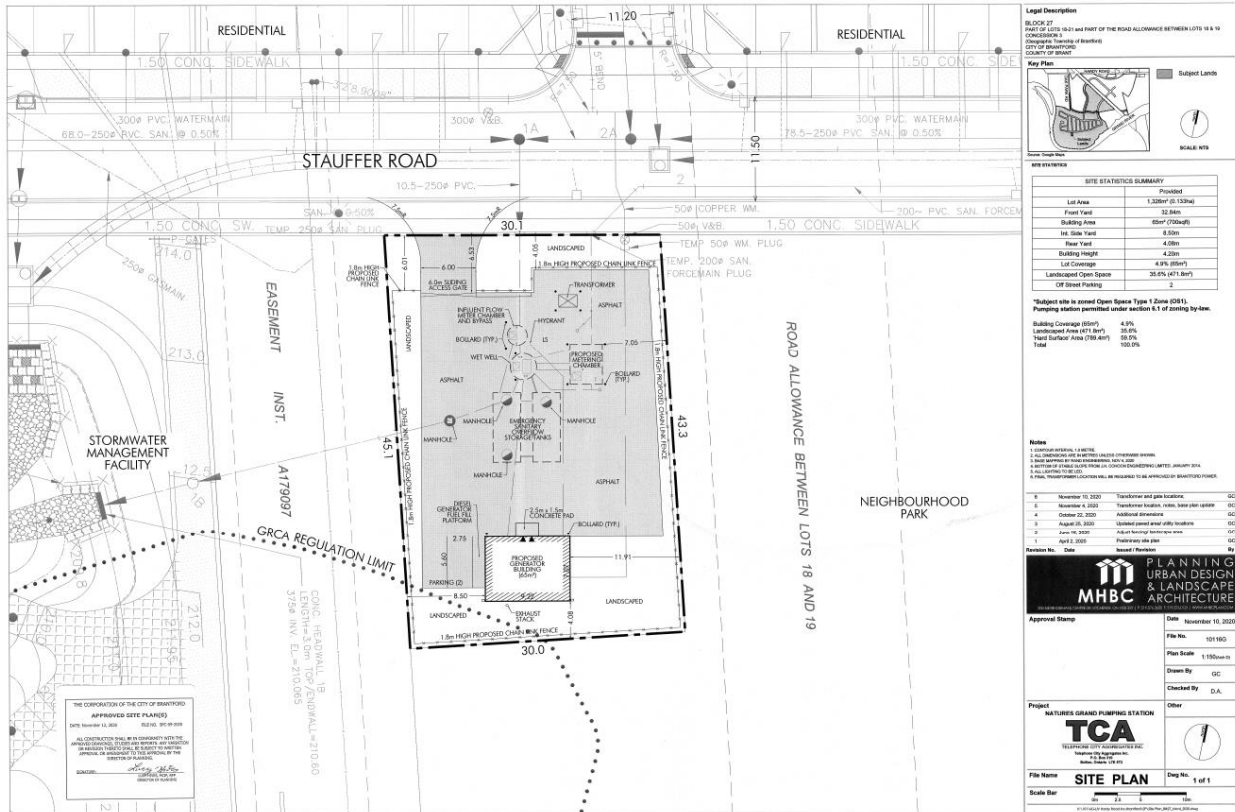


Approximate Location of Block
27 (proposed Sanitary Pumping
Station)

[illegible]

Location of Block 27 (proposed Sanitary Pumping Station)

Appendix C – Site Plan



Appendix D – Aerial Photo

AERIAL PHOTO

Application: A08/2021
395 Hardy Road



Legend

 Subject Land

Aerial Photo from Spring 2017



Appendix E – Site Photograph



Photo of subject lands. Grading and rehabilitation of the lands is currently taking place.

Appendix F – Building Department 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^oA02-21

SITE: Block 27 on draft plan of subdivision 29T-18504
TO PERMIT: Reduced side and rear yard setbacks
APPLICANT: Telephone City Aggregates Inc. (TCA) & James Dick Constructed Limited

COMMENTS:

BYLAW: 160-90 ZONE: OS1

- A variance is required to permit a rear yard of 4m, whereas 12m is required.
- A variance is required to permit a side yard of 8.5m, whereas 12m is required.

Marta Schultz

Senior Plans Examiner

11/24/20

Appendix G – 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.		A08/2021	
DATE DUE TO PLANNING		December 11, 2020	
APPLICANT / OWNER:		Telephone City Aggregates Inc (TCA)	
AGENT		MHBC Planning Limited	
ADDRESS		Block 27 on draft Plan of Subdivision 29T-18504	
TRANSPORTATION			

➤ No comment.

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.		A08/2021	
DATE DUE TO PLANNING		December 11, 2020	
APPLICANT / OWNER:		Telephone City Aggregates Inc (TCA)	
AGENT		MHBC Planning Limited	
ADDRESS		Block 27 on draft Plan of Subdivision 29T-18504	
ENVIRONMENTAL SERVICES			

I reviewed the subject noted application and associated documents, as prepared by MHBC Planning Ltd., on behalf of Environmental Services and have no objection to the proposed variances.

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.		A08/2021	
DATE DUE TO PLANNING		December 11, 2020	
APPLICANT / OWNER:		Telephone City Aggregates Inc (TCA)	
AGENT		MHBC Planning Limited	
ADDRESS		Block 27 on draft Plan of Subdivision 29T-18504	
DEVELOPMENT ENGINEERING			

➤ Development Engineering has no comments on the Minor Variance for 395 Hardy Road (Block 27).

Tyler Wright, C.E.T.
Development Engineering Reviewer

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

January 7, 2021
DATE


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

Appendix H – Public Comment

Dear Alexandra,

I would like some information on the application to reduce the set backs on a pumping station in the development North-West of and upstream from Brant Park.

What is being pumped and where is it being pumped to?

Since regulations exist specifying these set backs and the developers would have planned to account for them.... **Why and for what reason are the applicants requesting they be reduced?**

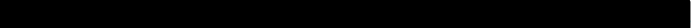
This entire development is questionable. It threatens to further fracture the native species rich band of wild lands adjacent to the river. It threatens the introduction of non-native invasive species, garbage and plastic refuse into the riparian alley way. Quite by accident perhaps but also intentionally by ignorance.

Are the developers required to plant only native species of grass, shrubs and trees? (in fact anything that is planted should be native!)

Does Brantford have a list of native species that home owners/developers are required to plant?

I am sure in these strange times you are very over taxed and thank you for any help you can give.

Sincerely,

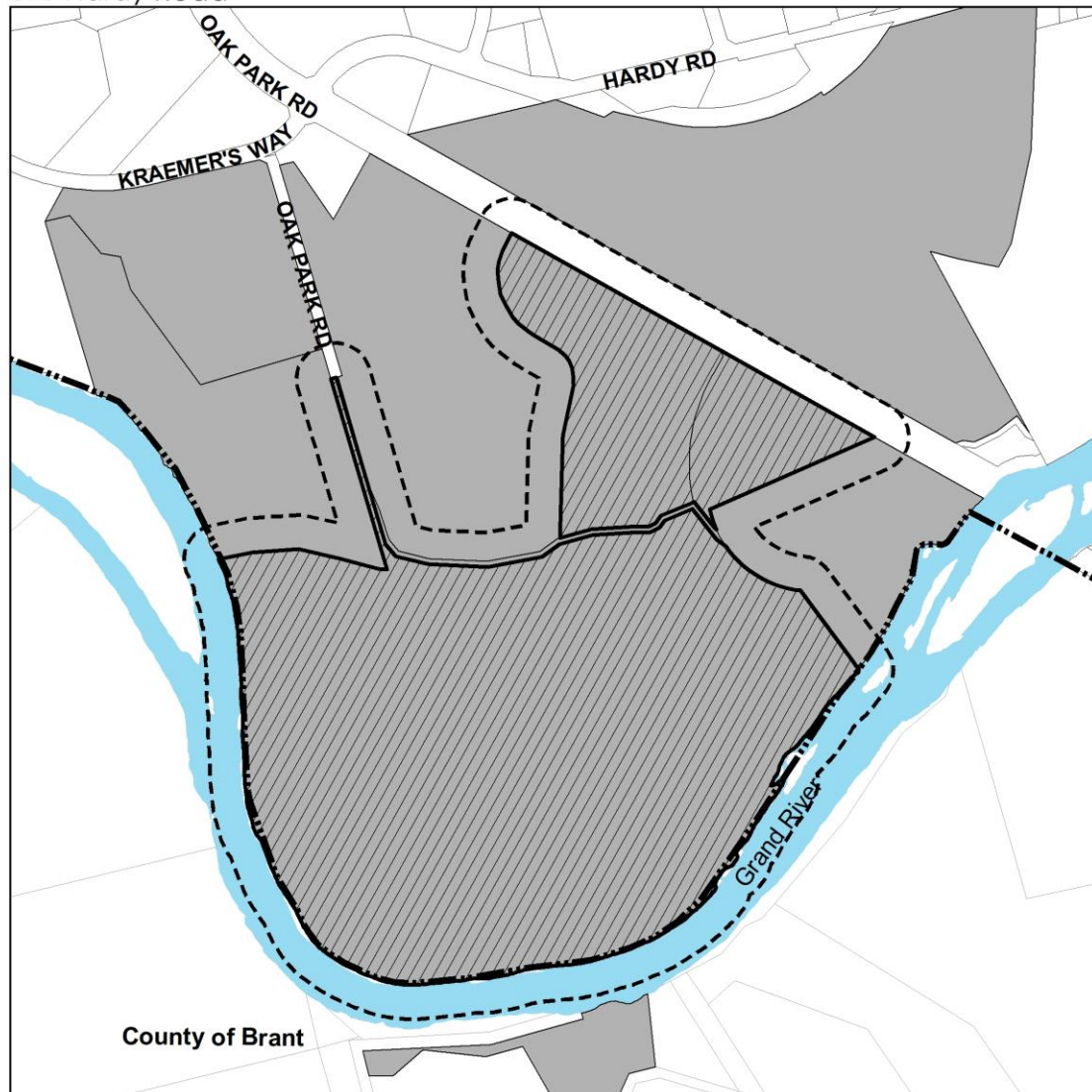


should have been included in your mailing list)

Appendix I – Area of Public Notification

AREA OF PUBLIC NOTIFICATION

Application: A08/2021
395 Hardy Road



Legend

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



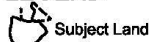
Appendix J – Official Plan

OFFICIAL PLAN

Application: A08/2021
395 Hardy Road



LEGEND



- 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
- LONG TERM CORRIDOR PROTECTION
- SPECIALIZED PARK and OPEN SPACE
- COMMUNITY PARK and OPEN SPACE
- NEIGHBOURHOOD PARK and OPEN SPACE



Appendix K - Zoning

ZONING

Application: A08/2021
395 Hardy Road



Legend

-  Subject Land
-  Zone Boundary

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

- R3 Residential Type 3
- C9 Neighborhood Centre Commercial
- M2 General Industrial
- OS1 Open Space Type 1
- OS3 Open Space Restricted
- H Holding Provision
- # Exception Number

