

BY-LAW NUMBER 140-23

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THE CORPORATION OF THE COUNTY OF BRANT

To repeal and replace by-Law Number 157-03, as amended,
and to enact a new Site Plan Control By-Law for the County of Brant.

WHEREAS Section 41(2) of the *Planning Act, R.S.O., 1990, c.P.13* as amended, (the "*Planning Act*") empowers a municipality, whose Official Plan shows or describes an area as a proposed site plan control area, to pass a By-law designating the whole or any part of such area as a site plan control area,

AND WHEREAS in the Official Plan for the County of Brant ("the Official Plan") all lands in the County of Brant ("the County") are shown or described as a proposed site plan control area;

AND WHEREAS the County deems it desirable to update its By-Law adopted to exercise its powers under Section 41 of the *Planning Act* for the purposes of site plan control.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS the following:

1. Short Title

1.1. This By-law may be referred to as the "Site Plan Control By-Law".

2. Purpose

2.1. Under the authority of the *Planning Act*, Site Plan Control is a tool that will be used to evaluate various site elements and determine the appropriate design of any subject property in the County of Brant. The purpose of this By-Law is to implement the policies of the Official Plan, as may be amended from time to time, to ensure that the development of any lands within the County of Brant reflects the strategic direction and objectives of the County. It will be used as a means of achieving high quality comprehensive design, promoting the efficient use of land and services, ensuring potential adverse impacts of the development are avoided/mitigated, improving the function of the site and surrounding areas, ensuring accessibility and equitable use of the site and surrounding areas, protecting natural heritage features and systems, providing sustainable design elements, and achieving the objectives of a complete community in accordance with the policies and directions of the Official Plan.

3. Site Plan Control Area

3.1. As described in the Official Plan, all lands within the municipal limits of the County of Brant, inclusive of all designations established in the Official Plan, are hereby designated as a Site Plan Control Area under subsection 41(3) of the *Planning Act*.

4. Definitions

4.1. For the purposes of this by-law, unless a contrary intention appears,

- a) "Act" or "*Planning Act*" shall mean the *Planning Act, R.S.O. 1990, c.P.13*, as may be amended from time to time.

- b) “agreement” shall mean any agreement made under the authority of subsection 41(7)(c) and 41(7)(c.1) of *the Planning Act*.
- c) “authorized person” shall mean the Chief Administrative Officer, General Manager of Development Services, or any other designate as may be identified in the County of Brant Delegated Authority Bylaw as may be amended from time to time.
- d) “Corporation” or “County” shall mean the Corporation of the County of Brant including any person who has the authority to bind the corporation, or any department, division, or staff that has the applicable delegated authority authorized by the County of Brant Delegated Authority By-Law.
- e) “Council” shall mean the elected mayor and council of the County of Brant, or any delegate as specified and authorized by the County of Brant Delegated Authority By-Law as amended from time to time.
- f) “development” shall have the same meaning as in subsection 41(1) of the *Planning Act*.
- g) “lot coverage” shall mean the cumulative size of any buildings, structures, parking facilities, walkways, and/or any similar impervious surfaces, represented as a ratio of coverage of the total lot area.
- h) “off-site development works” shall mean any works within the public right-of-way, or other property under the ownership of the corporation, that may or may not be required as a condition of development but must be undertaken to facilitate the development of the property in accordance with the development agreement.
- i) “on-site development works” shall mean any works undertaken on the subject property that may or may not be required as a condition of development but must be undertaken to facilitate the development of the property in accordance with the development agreement. For greater clarity, such works may include, but are not limited to, any landscaping works, work required as a condition of an environmental implementation plan, grading or drainage works, stormwater management, sanitary and water related infrastructure.
- j) “parkland dedication” shall have the same meaning as in the County of Brant Parkland Dedication By-law, being By-Law 31-22, as amended, or any subsequent By-Law enacted under the authority of section 42 of the *Planning Act*.
- k) “prescribed areas” shall mean the following with respect to section 41 of the *Planning Act* and Ontario Regulation 254/23, as may be amended:
 - i) Any area that is within 300 metres of a railway line other than a railway line whose operations have been discontinued under section 146 of the *Canada Transportation Act (Canada)*, a railway line that has been abandoned and to which the *Canada Transportation Act (Canada)* does not apply, and any railway line on which the only railway that operates is an urban rail transit system.
 - ii) Any area that is within 120 metres of a wetland, an inland lake, or a river or stream valley that has depressional features associated with a river or stream, whether or not it contains a water course.

- l) “property owner” or “owner” shall mean the individual or company that has the rights, title and interest to a property, such as a block of land or a building, and is responsible for the payment of any rates and taxes that arise.
- m) “Province” shall mean the Government of the Province of Ontario, including any applicable Ministries.
- n) “redevelopment” shall mean the removal or the intended removal of buildings or structures from land for the purpose of future development.
- o) “site plan application” shall mean any information, plans, or drawings contemplated under section 41 of *the Planning Act*, and as further described in the provisions outlined in the County of Brant Official Plan as they relate to subsection 41(3.4) of *the Planning Act*.
- p) “subject property” shall mean any specific lands within the site plan control area where development is proposed to be undertaken, as may be further described in a site plan application or an applicable development agreement.
- q) “Tribunal” shall mean the Ontario Lands Tribunal (OLT) as established under *the Ontario Land Tribunal Act, 2021, S.O. 2021, c. 4, Sched. 6*.
- r) “usability” shall mean a modification made to any property that has the potential to, at the sole discretion of the County of Brant, result in any one or more of the following:
 - i) A change to the location of or any increase to the size, height, or number of buildings or structures on the subject property.
 - ii) An increase in the amount of noise, lighting, odour, vibration, or any similar nuisance generated on the subject property that would potentially have adverse effects on surrounding properties.
 - iii) The construction, placement, or alteration of any buildings or structures in or within 120 metres of a wetland, an inland lake, or a river or stream valley that has digressional features associated with a river or stream, whether or not it contains a watercourse.
 - iv) The construction or placement of any buildings or structures within 300 metres of a railway line.
 - v) An alteration to the ingress or egress of the subject property.
 - vi) An alteration to the traffic flow on or around the subject property.
 - vii) An alteration to the parking facilities provided on the subject property or on other lands for the benefit of the subject property.
 - viii) An alteration to the stormwater management, impermeable surfaces, grading, drainage, or other similar sustainable design elements on the subject property.
 - ix) An alteration to the servicing infrastructure on or around the subject property.

5. Exceptions, Exempted Classes of Development, and Exclusions

5.1. The following exceptions shall not require a site plan application prior to development:

- a) All exceptions as described in *the Planning Act*, including:
 - i. The placement of a portable classroom on a school site of a district school board if the school site was in existence on January 1, 2007.
(s. 41(1.1), *the Planning Act*)
 - ii. The construction, erection, or placing of a building or structure for residential purposes on a parcel of land if that parcel of land will contain no more than 10 residential units, unless the parcel of land includes any land in a prescribed area (*O.Reg. 254/23*). For greater clarity, this provision shall also apply to the construction, erection, or placing of a building or structure that is accessory to the residential uses of the parcel of land.
 - iii. The construction, erection, or placing of a land lease community home, as defined in subsection 46(1) of the *Act*, on a parcel of land that will contain any number of other types of residential units, provided the development will not result in there being more than 3 land lease community homes.

5.2 The following classes of development shall not require a site plan application prior to development:

- a) Temporary structures where a period of temporary placement and the structure's use does exceed 120 cumulative days within a calendar year.
- b) Any development for the purposes of a farm operation, as defined by the Official Plan for the County of Brant, provided the development does not include an on-farm diversified use, or combined on-farm diversified use and agriculture-related use.
- c) Any *development* that would result in a modification to the usability of a subject property where one or more of the following applies:
 - i. The enlargement, improvements, or modifications to the subject property will not exceed twenty-five percent (25%) of the existing cumulative gross floor area of all buildings, up to a maximum enlargement or modified area of 400 cumulative square metres.
 - ii. The number of required parking spaces will not increase by more than twenty-five percent (25%), relative to the amount of parking required existing on the lands at the time of application.; or
 - iii. Any site alteration, including the conversion of vegetated or bare soil area to any non-vegetated surface (e.g., gravel, paving, buildings etc.), will not decrease the existing vegetated areas by more than twenty percent (20%);
- d) Aggregate extraction operations with a license issued by the Province of Ontario and any similar accessory use on the subject property;

5.3. Notwithstanding the exceptions described in section 5.2 of this By-Law, any class of *development* located within a prescribed area under the authority of *O.Reg. 254/23* may require the submission and approval of a site plan application where, at the sole discretion

of an authorized person, it has been determined that mitigative measures are required to be included on-site to implement the policies of the Official Plan.

5.4. The following matters relating to buildings and structures shall be excluded from site plan approval, unless otherwise specified:

- a) All exclusions as described in *the Planning Act as may be amended*, including:
 - i. Interior Design.
 - ii. Exterior design, except:
 1. exterior access to a building containing affordable housing units, and
 2. as it may related to a By-Law passed under the authority of subsection 97.1(1) of the *Municipal Act, 2001*, respecting the protection or conservation of the environment that requires buildings to be constructed in accordance with provisions of the building code under the *Building Code Act, 1992* that are prescribed under that Act, subject to such conditions and limits as may be prescribed under that Act.
 - iii. The layout of interior areas, excluding interior walkways, stairs, elevators, and escalators to which members of the public have access from streets, open spaces, and interior walkways in adjacent buildings.
 - iv. The manner of construction and standards for construction.
 - v. The appearance of exterior elements, except where it impacts matters of health, safety, accessibility, sustainable design, or the protection of adjoining lands.

6. General Site Plan Applications, Review and Approval

6.1. Any class of development not exempted from a site plan application under section 5 of this By-Law shall be subject to the general site plan control process as further described in this section. The general site plan process shall be considered the standard site plan application process applied to all development within the site plan control area.

6.2. The requirements, application, review, and approval process for a general site plan application shall be as follows:

- a) Under the authority of subsection 41(3.1) of *the Planning Act* and as outlined in the policies of the County of Brant Official Plan, the applicant shall be required to undertake pre-application consultation with the corporation prior to the submission of any general site plan application. Such a pre-application consultation meeting shall only be valid for a period of one (1) year following the release of the minutes of the meeting. After that time, a new pre-consultation meeting shall be required.
- b) As per section 1.0.1 of the *Act*, any information that is required to be provided to the corporation under the authority of this by-law shall be made available to the public.

- c) Every general site plan application shall be accompanied by the plans, specifications, documents, and information required by the policies of the County of Brant Official Plan and as prescribed during the pre-application consultation meeting. Once all the required information has been submitted, the applicant will then be permitted to pay any fees prescribed pursuant to Section 69 of *the Act*. Until such time as required information and fees have been provided, no site plan application shall be considered to have been made or received.
- d) Within 30 days after the applicant pays any prescribed fee and submits the application, the corporation will notify the applicant in writing with respect to the completeness of the application.
- e) Where Site Plan Design Standards have been approved by Council, they may be included as a Schedule forming part of this By-Law, and they shall apply to all classes of development subject to this section of the By-Law as may be further described in said Schedule.
- f) The site plan application will be reviewed by the applicable staff of the corporation, Indigenous nations, and any agencies with jurisdiction for the purposes of making required changes to the plans or drawings prior to submission, and for the purposes of determining appropriate conditions to impose and securities to be posted through the entering into one or more agreements, for the purposes of implementing the policies of the Official Plan and provisions in the *Act* including any associated regulations.

7. Minor Site Plan Applications, Review, and Approval

7.1. Notwithstanding section 6.1 of this By-law, any class of development specifically stated within this section of the By-law shall be subject to the minor site plan application process for the purposes of applying a scoped evaluation of the various site elements and determining the appropriate design of a site. Such classes subject to a minor site plan application shall be inclusive of development of or related to the following:

- a) Agriculture-related uses in combination with On-Farm Diversified uses
- b) On-Farm Diversified uses
- c) Development on a property under sole ownership of the Corporation of the County of Brant
- d) Limited minor additions subject to the criteria of Section 7.2 and at the sole discretion of an authorized person.

7.2. It is the intent of a minor site plan application to only apply in instances where the modifications to the subject property are limited in size, location, and scale so as to not impact stormwater management, municipal sanitary demand, municipal water demand, geotechnical engineering, grading, or traffic circulation and not to create nuisance that would impact surrounding properties. It shall be the responsibility of the applicant to demonstrate that such impacts and potential for nuisance would not exist as a result of the development of the subject property. Such information shall be provided to the satisfaction of the County at the time of minor site plan application.

7.3. The requirements, application, review, and approval process for a minor site plan application shall be as follows:

- a) Under the authority of subsection 41(3.1) of *the Act* and as outlined in the policies of the County of Brant Official Plan, a scoped pre-consultation meeting with the corporation may, at the sole discretion of an authorized person, be required prior to the submission of any minor site plan application. Such a pre-consultation meeting shall only be valid for a period of one (1) year following the release of the minutes of the meeting. After that time, a new meeting shall be required.
- b) As per section 1.0.1 of *the Act*, any information that is required to be provided to the County under the authority of this By-law shall be made available to the public.
- c) Every minor site plan application shall be accompanied by the plans, specifications, documents, and information required by the policies of the Official Plan. The necessary information for the application submission may be determined as part of a prescribed pre-application consultation meeting or indicated by a standard list of requirements provided as part of the pre-application process. Once all the required information has been submitted, the applicant will be required to pay the fee prescribed pursuant to section 69 of *the Act*. Until such time as the required information and fees have been provided, no site plan application shall be considered to have been made.
- d) Within 30 days after the applicant pays any prescribed fee, the corporation will notify the applicant in writing with respect to the completeness of the application.
- e) Where Site Plan Design Standards have been approved and included as a Schedule forming part of this By-Law, they shall apply to all classes of development subject to this section of the By-Law as may be further described in said Schedule.
- f) The minor site plan application will be reviewed by the applicable staff of the corporation, Indigenous nations, and any agencies with jurisdiction for the purposes of making required changes to the plans or drawings prior to submission, and for the purposes of determining a final approved site plan drawing that abides by all applicable standards and implements the policies of the Official Plan.

8. Exercise of Power

- 8.1. As per section 1.0.1 of *the Act*, any information that is required to be provided to the County under the authority of this by-law shall be made available to the public and such a process may be further outlined in the County's policies for public consultation.
- 8.2. No person shall undertake any development not exempted under Section 5 of this By-Law before the site plan application has been approved or conditionally approved by the authorized person.
- 8.3. No person shall undertake development and no site plan application shall be processed under Section 5 of this By-Law before the site plan application has been deemed complete as per subsection 41(3.6) of the *Act*, unless otherwise specifically permitted by this By-Law.
- 8.4. The County may, as a condition to the approval of a site plan application referred to in Section 6 or Section 7 of this By-Law, require from the owner of the subject property any or all of the following:

- a) The provision, maintenance, and the entering into one or more agreements, at no cost to the County, of any or all of the facilities and works required under subsection 41(7) of *the Act*.
- b) That for the purposes of ensuring the provision of any or all of the facilities, works or matters are provided to the satisfaction of and at no expense to the County, securities shall be posted by the property owner in a form deemed acceptable to the corporation, to ensure that development proceeds in accordance with the plans and drawings approved under Section 6 or Section 7 of this By-Law in an amount equal in the aggregate to the amounts as specified within the applicable development agreement.
- c) Under the authority of Section 51.1 of *the Act*, parkland dedication may be required as a condition of approval, as further described in Section 2.3 and Section 3 of the County of Brant Parkland Dedication By-Law.
- d) Any further conditions as determined by the authorized person necessary for the purposes of implementing the policies of the County of Brant Official Plan and at the sole expense of the property owner.

9. Agreements

- 9.1. An agreement shall be considered a required condition of site plan approval for any general site plan application. For any minor site plan application, an agreement shall not be considered a required condition of site plan approval.
- 9.2. Where an agreement as described in subsection 41(7) of the *Act* is deemed to be required as a condition of site plan approval, any authorized person may prepare such an agreement.
- 9.3. Prior to the registration of the final agreement that is required as a condition of site plan approval, and after the Site Plan is finalized, signed and the final agreement is executed, conditional approval of the application may be granted in writing by an authorized person. Such a conditional approval shall be limited to allow preliminary site works, such as servicing infrastructure, grading, and foundation construction, to begin before the final site plan approval is granted only where it has been determined by the County that there would be no adverse effects of the preliminary site works on the site or neighbouring properties. Similar to section 8.4 of this By-Law, Council shall be notified of this permission.
- 9.4. Any required development agreement(s) shall be registered on title against the land to which it applies subject to the provisions of the *Registry Act* and the *Land Titles Act*, and in accordance with Subsection 41(10) of *the Planning Act*.
- 9.5. With respect to a previously approved site plan application where site works or the terms of the agreement remain outstanding, minor amendments may be made through a scoped revision process (sometimes referred to as a redline revision) to the approved site plan control documents and/or an amending agreement, provided the amendments are prepared by an authorized person and registered on title. The determination of the scope of an appropriate minor amendment shall be at the sole discretion of the authorized person.
- 9.6. Unless further prescribed by the required development agreement, a development approval pursuant to Section 41 of *the Act* shall lapse upon the passing of two (2) years from the registration of the agreement if certain conditions for the development, as outlined in the applicable agreement, are not undertaken within two (2) year period from the date of a registration.
- 9.7. Where a development agreement has been registered and the prescribed criteria cannot be met within the required timeline, any applicant may request an extension to be granted by an authorized person to extend the timeline for additional period(s) not exceeding one

(1) year. Such a request shall be made in writing to the authorized person no later than thirty (30) calendar days before the prescribed date of the lapsing date of the agreement.

10. Enforcement, Penalties, and Conflict

- 10.1. The corporation may require a property owner to provide and execute a site plan undertaking to ensure compliance with the conditions to provide, maintain or complete the site works as required by the County, and to ensure that such works have been completed as outlined in the approved agreement.
- 10.2. Any person who undertakes any development in the site plan control area designated by this By-Law without providing or maintaining any of the facilities, works or matters that are required as a condition of approval in accordance with section 41 of *the Act* is guilty of contravening section 41 of *the Act* and shall be subject to the penalties authorized under section 67 of *the Act* as determined appropriate at the sole discretion of an authorized person.
- 10.3. Section 10.2 of this By-Law may also apply to any person who does not perform the prescribed works within the required timeline for development, as outlined in the agreement and referred to in section 9 of this By-Law, and who has not notified the corporation of the same within thirty (30) calendar days of the lapsing date of the agreement.
- 10.4. As authorized under section 446 of the *Municipal Act*, and further authorized under section 43(11) of the *Act*, the corporation may:
- a) Use the securities required under Section 8.4(b) of this By-law and the required development agreement for the purposes of completing any works that have not been completed to the satisfaction of the corporation and the development agreement, to be done at the property owner's expense and no expense to the corporation.
 - b) Enter upon land at any reasonable time to undertake the required works.
 - c) Recover the costs of doing such required works from the property owner by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.
 - d) Include interest calculated at a rate of 15 per cent, calculated for the period commencing on the day the municipality incurs the costs and ending on the day the costs, including the interest, are paid in full.
 - e) Register a notice of lien in the proper land registry office the amount of costs, including interest, to constitute a lien upon the subject property.
- 10.5. Such a lien as mentioned in Section 10.3 of this By-Law shall be plus interest accrued at the rate established in section 10.3(d) of this By-Law, to the date the payment is made. Upon receiving payment of all costs payable plus interest, the corporation shall register a discharge of the lien in the proper land registry office.
- 10.6. Should any court of competent jurisdiction declare any provision or part of a provision of this By-Law as invalid, the provision or part of a provision is deemed severable from this By-Law, and it is the intention of Council that the remainder of the By-Law shall continue to be in force.

11. Repeals, Transition, Enactment, and Amendments

- 11.1. Any granted exemptions will be listed in an Annex to this By-law for reference purposes only, stating the property address, PIN, exempted class(es) of development, and date of Council resolution/approval.
- 11.2. Should Council wish to delegate its authority related to any aspect of this By-Law, such a delegation of authority will be included in the County of Brant's Delegated Authority By-Law as amended.
- 11.3. Any amendments to this By-law shall be consolidated into the applicable text and schedules of this By-Law and a table summarizing the amendments will be included as an annex with each consolidation. Such a table will not form part of the By-Law.
- 11.4. This By-Law shall replace By-Law 157-03, as amended, which shall be hereby repealed upon the passing of this By-Law, and this By-Law shall come into force and take effect on the day of final passage thereof.

READ a first and second time, this 19th day of December, 2023

READ a third time and finally passed in Council, this 19th day of December, 2023

THE CORPORATION OF THE COUNTY OF BRANT

David Bailey, Mayor

Alysha Dyjach, Clerk