

#### COUNTY OF BRANT COMMITTEE OF ADJUSTMENT REPORT

**DATE:** October 17, 2024 **REPORT NO:** B15-24-ES

**TO:** To the Chair and Members of the Committee of Adjustment

FROM: Logan Keen, Junior Planner

**APPLICATION TYPE:** Consent Application

**APPLICATION NO:** B15-24-ES

LOCATION: 405 Third Concession Rd

AGENT / APPLICANT: Trevor Hawkins, MHBC

**OWNER:** 1778206 Ontario Inc/ Kris Martin

SUBJECT: Request for a decision on an application for Consent proposing to sever

a surplus dwelling within the Former Township of Burford.

#### RECOMMENDATION

THAT Consent Application **B15-24-ES** from Trevor Hawkins, Agents, on behalf of 1778206 Ontario Inc./ Kris Martin, Owner of lands legally known as CONCESION 3 PART LOT 19 municipally known as 405 Third Concession Rd, within the Former Township of Burford, County of Brant, proposing to sever a surplus dwelling with an area of approximately 0.745 hectares (1.84 acres) and a frontage of approximately 12.4 metres (40.68 feet) along Third Concession Rd, with the retained lands having an area of approximately 32.86 hectares (81.20 acres). **BE APPROVED**, **subject to the attached conditions**.

THAT the reason(s) for approval are as follows:

- The application is consistent with the policies of the Growth Plan for the Greater Golden Horseshoe and consistent with the policies of *Provincial Policy Statement*.
- The application is in conformity/ compliance with the general intent of the policies of the Official Plan and Zoning By-Law, specifically for surplus farm dwelling.

## **EXECUTIVE SUMMARY**

Consent Application B15-24-KD is proposing to sever a surplus dwelling with an area of approximately 0.745 ha (1.84 acres) and a frontage of approximately 12.4 metres along Third Concession Road. With the retained lands having an area of approximately 32.860 ha (81.20 acres). The severed lands are to include a surplus farm dwelling as the owner of the property has additional agriculture land holdings in the County and as such, the existing residence is deemed surplus to the needs of the owner. The retained lands contain three (3) accessory structures which are to be demolished.

To facilitate the severance, the applicant will be required to apply for a minor rezoning to prohibit a dwelling as a permitted use on the retained lands. This has been included as a

condition of consent. Additionally, the severed lands do not meet the requirements for minimum lot frontage. This has been included through a condition of consent.

The planning analysis focuses on literature reviews of applicable policy (i.e. *Planning Act*, *Provincial Policy Statement* (2020), Growth Plan for the Greater Golden Horseshoe (2020), County of Brant Official Plan (2012), Zoning By-Law 61-16, consultation with departments, inspection of the subject lands and surrounding neighbourhood and discussions with the Applicant and Public. This report recommends that Consent Applications B15-24-KD be **Approved**, subject to the attached conditions.

#### **LOCATION / EXISTING CONDITIONS**

The subject lands municipally known as 405 Third Concession Road are located on the south side of Third Concession Road, approximately 290m west of W Quarter Townline Rd and having frontage along the south side of Third Concession Road. The subject lands are rectangular in shape, having an approximately 295.29 metres of frontage, and a total area of approximately 33.605 hectares (83.04 acres).

To the north, east and west of the subject lands are agricultural lands, single detached dwellings and accessory structures. To the south are OS1 zoned lands, consisting of an RV park. Based on aerial imagery, a site visit conducted by County Staff, there is a livestock barn on the abutting property 317 metres to the west (calculations confirm that there are no MDS concerns). The subjects lands are currently occupied by a single detached dwelling and 3 accessory buildings, all of the accessory buildings are to be demolished.

The subject lands are privately serviced by well and septic.

#### **REPORT**

## Planning Act

Section 51(24) of the *Planning Act* sets out criteria to be considered when reviewing consent applications.

# Consistency and/or Conformity with Provincial and/or Municipal Policies/Plans

# <u>Provincial Policy Statement – 2020</u>

The Provincial Policy Statement (PPS) provides policy direction on matters of Provincial interest regarding land use planning and development and sets the policy foundation for regulating land use and development of land. All decisions affecting planning matters shall be 'consistent with' policy statements issued under the Planning Act.

Section 2.3.1 describes how Prime Agricultural areas shall be protected for long term agricultural use.

The retained lands are expected to have an area of approximately 32.86 hectares (81.20 acres) and will continue be farmed as part of a larger farming operation.

Section 2.3.3.1 speaks to permitted uses and activities within prime agricultural areas which include agricultural uses, agriculture related uses and on farm diversified use.

# The retained lands will continue to be farmed as part of a larger farming operation.

Section 2.3.3.2 describes how in prime agricultural areas, all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance

with provincial standards.

## The retained lands will be farmed as part of a larger farming operation.

Section 2.3.4.1 of the PPS describes how the creation of lots in prime agricultural areas is discouraged and may only be permitted for:

- (a) a residence surplus to a farming operation as a result of farm consolidation, provided that
  - 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and,
  - the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective

The lands to be severed are surplus to the owner's needs and are proposed to have an area of approximately 0.745 hectares (1.84 acres). The retained parcel is approximately 32.86 hectares (81.20 acres) and is to be rezoned to prohibit a dwelling.

Section 2.3.4.3 of the PPS describes how the creation of new residential lots in prime agricultural areas is not permitted except in accordance with policy 2.3.4.1(c).

A surplus farm dwelling severance is being proposed which is in accordance with policy 2.3.4.1(c) of the PPS. Through a condition of severance, the retained farm will be rezoned to prohibit a residential use. The severed lot is occupied by an existing habitable dwelling that is surplus to the owner's needs.

Section 6.0 includes the definition for "residence surplus to a farming operation"

 means an existing habitable farm residence that is rendered surplus as a result of farm consolidation (the acquisition of additional farm parcels to be operated as one farm operation).

The existing dwelling has been rendered surplus as a result of farm consolidation with an existing farming operation, which are to be farmed as part of the larger farming operation, owned and operated by 1778206 Ontario Inc.

This application is consistent with the Provincial Policy Statement (2020) for the following reasons:

- The retained lands will continue to be used for agricultural purposes, and will be farmed as part of a larger farming operation as outlined in the Cover Letter, the owner has additional agricultural land holdings in the County.
- The proposed lot established for the surplus farm dwelling is limited to the minimum size needed to accommodate appropriate sewage and water services.
- No new residential building lots will be created as the retained lands are to be rezoned to prohibit a dwelling through the minor zoning amendment process as a condition of severance.
- The dwelling is surplus to the owner's needs and the retained farm will be consolidated with the owner's other farming operation.

## Growth Plan for the Greater Golden Horseshoe (2020)

The Growth Plan is a framework that provides policy direction to implement strong and prosperous communities and how to manage growth in Ontario to 2051. The Planning Act requires that all decisions that affect a planning matter shall 'conform with' Provincial plans, including but not limited to the Growth Plan.

Section 2.2.1.2 (b) of the Growth Plan describes how growth will be limited on lands that are not serviced by existing or planned municipal water and wastewater system.

## The severed parcel will continue to be privately serviced.

Section 4.2.6.4 of the Growth Plan describes how the geographic continuity of the agricultural land base and the functional and economic connections to the agri-food network will be maintained and enhanced.

The retained lands are expected to have an area of approximately 32.86 hectares (81.20 acres) and will be farmed as part of a larger farming operation.

Section 4.2.6.5 of the Growth Plan speaks to the retention of existing lots of record for agricultural uses is encouraged, and the use of these lots for non-agricultural uses is discouraged.

The retained lands will continue to be farmed as part of a larger farming operation and no new residential building lots will be created.

This application conforms to the Growth Plan for the Greater Golden Horseshoe (2020) for the following reasons:

- The retained lands will continue to be used for agricultural purposes and will be farmed as part of a larger farming operation.
- No new residential building lots will be created as the retained lands are to be rezoned to prohibit a dwelling as a condition of severance.
- The dwelling is surplus to a larger farming operation has one dwelling existing on the property.

# Source Water Protection

Source protection plans contain a series of locally developed policies that, as they are implemented, protect existing and future sources of municipal drinking water. Municipalities, source protection authorities, local health boards, the Province and other, are responsible for implementing source protection plan policies.

Staff have reviewed Source Water Protection Area mapping, and the subject lands are not within a Source Water Protection zone.

# Brant County Official Plan (2012)

The County of Brant Official Plan sets out the goals, objectives and policies to guide development within the municipality. The Planning Act requires that all decisions that affect a planning matter shall 'conform to' the local Municipal Policies, including but not limited to the County of Brant Official Plan.

The subject lands are designated Agriculture and Natural Heritage, within Appendix A of the Official Plan, and Woodlands and Vegetation, within Appendix C of the Official Plan. The lands to be severed are designated as Agriculture.

Section 1.11.2.6.2(a) of the County of Brant Official Plan recognizes the agricultural industry as an important component of the County's economic base and as a contributor to the County's rural character.

To facilitate the surplus dwelling severance, no actively farmed land has been removed. The retained lands will continue to be farmed as part of a larger farming operation.

Section 1.11.2.6.2(b) of the County of Brant Official Plan speaks to protecting the County's prime agricultural area for long term agricultural purposes.

The retained lands will continue to be designated as Agriculture and will be farmed as part of a larger farming operation.

Section 1.11.2.6.2(c) of the County of Brant Official Plan speaks to protecting the right to farm based on normal farm practices.

The retained lands are being farmed as part of a larger farming operation and no actively farmed lands were removed to facilitate the surplus farm dwelling severance.

Section 1.11.2.6.2(e) of the County of Brant Official Plan restricts the creation of new residential lots and other non-farm development in the County's Agricultural areas.

# As a condition of severance, the retained lands will need to be rezoned to prohibit a dwelling.

Section 1.11.2.6.2(i) of the County of Brant Official Plan requires the development of urban and nonfarm-related land uses to the County's Primary and Secondary Urban Settlement Areas and Hamlets and Villages, or areas specifically intended for the proposed land use, in order to protect the long-term operation and economic role of agriculture.

The retained lands will continue to be farmed as part of a larger agricultural operation, with no new residential building lots being created.

Section 1.11.2.6(j) of the County of Brant Official Plan ensures the protection of agricultural operations through the incorporation of Minimum Distance Separation Formulae in order to prevent adverse effects from odour.

Within 750 metres of the proposed lot, two (2) livestock operations were identified. This was confirmed by County Staff. 410 Third Concession Road and 415 Third Concession Rd have MDS setbacks of 202 metres and 130 metres, which are both respectively met.

Section 1.11.2.6.2(k) of the County of Brant Official Plan speaks to permitting farming operations that will help the County as a whole adjust to changing economic and technological conditions.

To facilitate the severance, the minimum amount of land was severed. All actively farmed land will continue to be farmed as part of a larger farming operation.

Section 3.3.1(a) of the County of Brant Official Plan describes how the primary form and predominant use of land in the Agriculture designation shall include all types of farming and normal farm practices, including the growing of crops, the raising of livestock and other animals for food, fur, or fibre; associated on-farm buildings and structures, including accommodation for associated full-time farm labour as required based on the size and nature of the operation; agricultural research operations; uses connected with the conservation of water, soil, wildlife and other natural resources; and resource extraction and resource-based uses.

The retained lands will continue to be designated as Agriculture, and will be farmed as part of a larger farming operation.

Section 3.3.1(c) of the County of Brant Official Plan describes how in general, one residential dwelling unit shall be permitted per lot on lands designated as Agriculture.

As a condition of severance, the retained lands will need to be rezoned to prohibit a dwelling. There is an existing dwelling on the proposed lot.

3.3.2.1(a) of the County of Brant Official Plan speaks to Minimum Distance Separation (MDS) Formulae be used to establish appropriate standards for separating proposed uses from existing livestock facilities (MDS I) and for applying appropriate standards for the separation of new or expanding livestock facilities from existing adjacent uses (MDS II). The County Zoning Bylaw shall establish separation distances between livestock operations (to be defined within the By-Law) and non-agricultural land uses in accordance with the Minimum Distance Separation Formulae.

The subject lands do not have any livestock facilities. If any livestock facilities were to be constructed, they would be required to satisfy MDS. The applicant submitted an MDS I report and met the minimum distance setback requirements, and no further reports were necessary.

Section 6.8.2.1(a) of the County of Brant Official Plan speaks to consents for the division of land in the Agriculture designation being discouraged. No consent shall be allowed within the Agriculture designation which may have the effect of creating lots that are not primarily related to agriculture, or agriculture-related commercial/industrial, or as specified by this Plan.

The applicants are proposing to sever the surplus farm dwelling, and through a condition of severance the retained lands are expected to be rezoned to prohibit a dwelling.

Section 6.8.2.1(c)(iv) of the County of Brant Official Plan speaks to previous or current farm consolidations rendering a residence surplus to a farming operation, a consent may be considered to sever the surplus farm dwelling from the from unit, provided that the following conditions are met:

- The lot severed for non-farm use is large enough to accommodate the use and onsite servicing, while ensuring that as little acreage as possible is taken out of productive agricultural land and shall generally be less than 0.6 hectares in size;
- ii. The Minimum Distance Separation Formulae can be met with the formulae applied as if the property was zoned or designated as a residential lot
- iii. The lot severed, for the non-farm use, shall neither create nor add additional dwelling units; and
- iv. The remnant parcel pf farmland created by the severance is rezoned to prohibit future construction of a new dwelling

The severed lot can accommodate private servicing and is 0.745 hectares (1.84 acres) in size. A Minimum Distance Separation I report was required, as there are livestock facilities within 750 metres of the proposed lot. The proposed new lot met the MDS I setback requirements and no further reports were necessary. No additional dwelling units are to be added. The retained lands will be rezoned as a condition of severance to prohibit a residential use and a condition will be added to facilitate the deficient lot frontage requirement.

Section 6.8.2.1(e)(ii) of the County of Brant Official Plan speaks to consent applications of farm parcels smaller than 40 hectares, and that the lot remaining shall be consistent with the policy for the surplus farm dwellings, and be generally less than 0.6 hectares in size unless suitable justification can be provided for a larger lot.

The severed lands are 0.745 hectares (1.84 acres) in size. The larger size is to accommodate the increased street setback to the dwelling, and to include the mature row of trees along the driveway and south property line.

I am of the professional opinion that this application conforms to the County of Brant Official Plan (2012) for the following reasons:

- No new residential building lots will be created as the retained lands are to be rezoned to prohibit a dwelling through the minor zoning amendment process as a condition of severance.
- The retained lands are expected to be farmed as part of a larger farming operation.
- The severed and retained parcels have frontage along Third Concession Road.
- The Minimum Distance Separation Formulae is able to be met
- The severed parcel is large enough to accommodate private servicing.

## Zoning By-Law 61-16

The subject lands are zoned as Agriculture (A) and Natural Heritage (NH) within the County of Brant Zoning By-Law 61-16. The lands subject to the severance are not within the Natural Heritage (NH) zone.

Section 6.1, Table 6.1.1 of the County of Brant Zoning By-Law speaks to permitted uses on lands zoned as Agriculture. Permitted uses include but are not limited to the following:

- Agricultural Use
- Agriculture-Related Use
- · Cannabis Production and Processing
- Dwelling, Single Detached
- Farm Production Outlet
- Forestry Uses
- Greenhouse
- On-Farm Diversified Use
- Shipping Container

Section 6.2, Table 6.2.1 of the County of Brant Zoning By-Law speaks to the development requirements for lands zoned as Agriculture. See chart below for analysis of development standards.

Development Standard	Required	Requested – Severed Lands	Requested – Retained Lands
Lot Area, Minimum (ha)	40ha 0.6ha or less – surplus farm	0.745 ha surplus dwelling	32.860 ha
	dwelling		

Lot Frontage, Minimum (m)	150m 20m – surplus farm dwelling	12.4 m (to be addressed through re-zoning	275.1m
	l laitti uwelling	application)	

Section 4.29 of the County of Brant Zoning By-law speaks to lot creation as a result of consent with respect to a dwelling surplus to a farming operation located within the Agricultural (A) Zone the following shall apply:

- a. If the lot has a minimum 20.0 metre frontage, then said lot shall be deemed to comply with the requirements of this By-Law with respect to the lot area or lot frontage;
- b. The dwelling shall only be considered surplus to the farming operations if it was constructed a minimum of 15 years prior to the date the application for the surplus farm dwelling consent is received;
- c. The dwelling must be considered habitable at the time of application, as determined by the local municipal Chief Building Official;
- d. Minimum Distance Separation Guidelines shall apply as if the property were zoned or designated as a residential lot.

The proposed severed lands do not meet the requirements for minimum lot frontage. This has been included through a condition of consent. As per MPAC, the existing dwelling was built in 1905. The existing dwelling on the proposed severed lands is considered habitable. MDS I report was completed and indicates no concerns with distance setback requirements.

All other regulations of the By-Law shall apply.

I am of the professional opinion that this application complies with the County of Brant Zoning By-Law 61-16 for the following reasons:

- The severed lot will seek relief for lot frontage.
- The retained lot has a sufficient frontage.
- The Minimum Distance Separation Guidelines have been applied and are able to be met.
- The severed and retained parcels have frontage along Third Concession Road.
- All other development provisions are being met.

#### INTERDEPARTMENTAL CONSIDERATIONS

#### **Development Engineering**

- Road widening along the Third Concession Road frontage of the retained lands (to be 11m from the centreline of travelled surface of road).
- Portions of three (3) municipal drains are located within the subject lands.
- The retained and severed parcels have care and control of their own entrances.
- As no works are proposed within the municipal road allowance, no PW Permits are required.
  - Should any new entrances or modifications to existing entrances are proposed,
     PW Permits are required to be submitted for County review.
- Hydro poles traverse the retained lands (Planning staff note this is being addressed through a condition)

## **Drainage**

- The proposed severance is within the Hamilton-Lockhart Municipal Drain system. A
  condition of severance for this property should be a section 65 reapportionment of the
  affected municipal drain assessment schedules.
- The landowner can either choose to file a written agreement detailing the share of the
  drainage assessment that each property will pay (this involves 2 parties, the owner of
  the retained and the owner of the severance) with the clerk who will then bring it before
  council to be approved by resolution, or they may request that the clerk hire an engineer
  to prepare the s. 65 reapportionment report.
- The costs to update the schedules will be born by the applicant.

### Canada Post:

- Mail delivery for this property will be via owner installed/maintained rural mailbox.
- No additional comments from Canada Post.

## **Fire**

No comments for the application.

## **Environmental Planning**

 Environmental Planning has reviewed the proposed surplus farm lot. The new lot is proposed greater than 120m from natural heritage features located on the south portion of the property, and as such Environmental Planning has no comments.

## <u>Hydro One</u>

- No comments or concerns
- Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only. For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier. To confirm if Hydro One is your local distributor please follow the following link: Stormcentre (hydroone.com)

# Parks Capital Planning & Forestry

- Cash-in-lieu for the amount of \$5813 for a surplus farm dwelling severance is required.
  - For consent applications, the payment so required shall be paid to County prior to final approval and receipt of the certificate confirming that all conditions have been satisfied and there the consent for severance has been granted and is in effect.

#### **PUBLIC CONSIDERATIONS**

Staff visited the site and the Applicant posted the public notice sign on 09/30/2024 in accordance with the *Planning Act*.

At the time of writing this report, no public comments have been received.

#### CONCLUSIONS AND RECOMMENDATIONS

The Applicant is proposing to sever a surplus dwelling with an area of approximately 0.745 ha (1.84 acres) and a frontage of approximately 12.4 metres along Third Concession Road. With the retained lands having an area of approximately 32.860 ha (81.20 acres). The severed lands are to include a surplus dwelling. The retained lands are to include the balance of the severed lands and three (3) accessory structures which are to be demolished. To facilitate the severance, the applicants will be required to apply for a minor rezoning to prohibit a dwelling on the retained parcel. This has been included as a condition of approval.

I am supportive of the consent application and in my professional opinion, the application is consistent with the *Provincial Policy Statement*, conforms to the Growth Plan for the Greater Golden Horseshoe, is in conformity with the County of Brant Official Plan (2012) and complies with the County of Brant Zoning By-Law 61-16 and therefore, I am recommending approval of the application, subject to the attached conditions.

Respectfully submitted,

Logan Keen, Junior Planner

Reviewed By: Kayla Deleye, Supervisor of Development Planning

#### **ATTACHMENTS**

- 1. Conditions of Approval
- 2. Zoning Map
- 3. Official Plan Map
- 4. Aerial Map
- Aerial Detail Map

#### **COPY TO**

- 1. Logan Keen, Junior Planner
- 2. Applicant/Agent

#### **FILE #** B15-24-ES

# In adopting this report, is a bylaw or agreement required?

By-Law required (No)
Agreement(s) or other documents to be signed by Mayor and /or Clerk (No)

Is the necessary By-Law or agreement being sent concurrently to Council? (No)

APPLICANT: 1778206 Ontario Inc/ Kris Martin File No: B15-24-ES

#### LIST OF CONDITIONS - COMMITTEE OF ADJUSTMENT

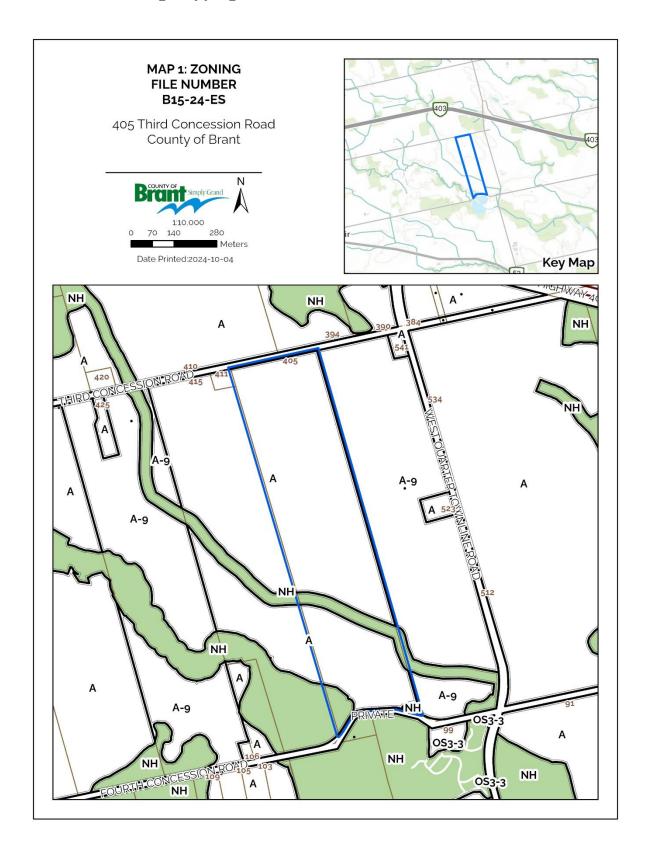
1. Proof that taxes have been paid up-to-date on the subject property to the County of Brant.

- That the Applicant provides a copy of the draft reference plan for the severed parcel, including the location of the existing well and septic system, hydro easements by a licensed surveyor for review by the Development Services Department, prior to the finalization of the Consent (i.e. registration of the deed in the appropriate Registry Office).
- 3. As a result of the Surplus Dwelling severance, that a subsequent Zoning By-Law Amendment Application be received, deemed complete and approved with no appeals for the purpose of prohibiting a dwelling as a permitted use on the proposed retained farm parcel (Agricultural-Special Exemption A-9) and to address deficient frontage on the severed parcel
  - That any further Planning Applications required to satisfy the conditions of approval must be received and deemed complete a minimum of four (4) months prior to the lapsing of this application.
- 4. That the three (3) accessory structures (including foundations) identified on Severance Sketch be removed prior to the finalization of the Consent.
- 5. That the comments of Development Engineering are understood and agreed to, specifically:
  - A road widening will be required along the Fourth Concession Road frontage of the retained lands, the widening being a distance of 11 metres from the centreline of the travelled road surface. This width would allow for future road maintenance and improvements (i.e. ditching improvements).
  - A Legal survey is required to be prepared and submitted to the County. The draft R-Plan shall be completed by an Ontario Land Surveyor and submitted to County staff for review.
  - Compensation (if applicable) for road widening / daylighting lands, surveying fees and registration will be determined as per County Policy DVS-2002-05 Land Dedication as a Condition of Planning Applications (as amended) at the time of submission of a draft reference plan for County review, following the establishment of Conditions of Consent.
  - Hydro easement to be shown on reference plan.
- That the Applicant provide draft transfer documents with legal descriptions of the severed lands utilizing an existing reference plan or new reference plan (if required) prior to the finalization of the Consent (i.e. registration of the deed in the appropriate Registry Office).

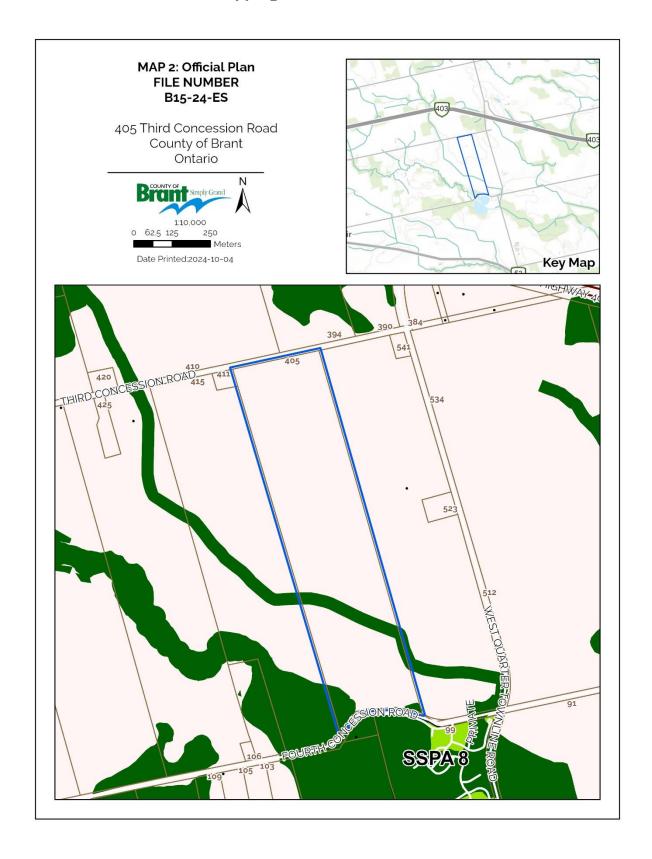
- 7. That the current \$328.00 Deed Stamping Fee be paid to the County of Brant for each lot, prior to the release of the executed Certificate of Official.
- 8. That a Parkland Dedication Fee of \$5,813 per new lot be provided prior to the release of the executed Certificate of Official.
- 9. That the above conditions must be fulfilled and the Document for Conveyance be presented to the Consent Authority for stamping within two years of the date of the written decision, sent by the Secretary-Treasurer pursuant to Section 53(17) of the *Planning Act, R.S.O. 1990*, otherwise the approval shall lapse.

NOTE: Any further Planning Applications required to satisfy the conditions of approval must be applied four (4) months prior to the lapsing of the Consent.

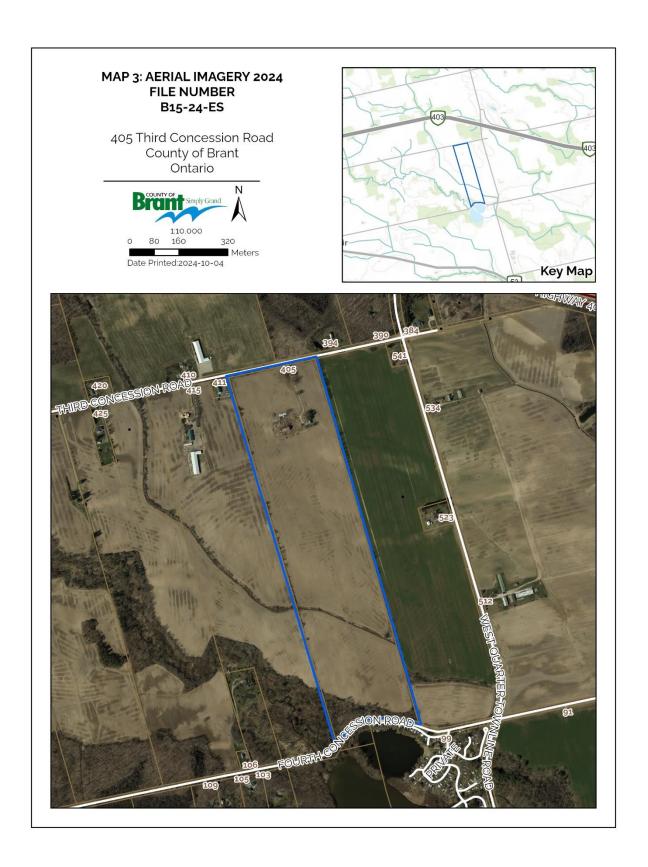
# Attachment 1 - Zoning Mapping



# Attachment 2 - Official Plan Mapping



# Attachment 3 - Aerial Mapping



# Attachment 4 - Aerial Detail Mapping

