

June 14, 2024

TO: Chairperson and Members of the Committee of Adjustment

SUBJECT: Minor Variance Application D13-14-2024
1706 Allanport Road
PT TWP LOT 183
2731 000 029 13000 0000
Thorold ON

PROPOSAL: An application has been submitted for a minor variance under Section 45(2) of the Planning Act, R.S.O. 1990, c.P.13, as amended, to permit the expansion of the legal non-conforming residential use established at 1706 Allanport Road, through the construction of a second dwelling unit within the existing single detached dwelling, as shown on the drawing submitted.

RECOMMENDATION:

That Minor Variance Application D13-14-2024 to permit the enlargement of the existing legal non-conforming residential use, **BE APPROVED.**



Figure 1: Location Map

Site Description

The subject lands are located on the east side of Allanport Road, south of Turner Road and north of Hurricane Road as shown in **Figure 1**. The lands are currently occupied by a single detached dwelling, a steel accessory building, as well as open/outside storage, and is proposed for internal renovations to allow for a second dwelling unit within the existing structure, as shown on the proposed Site Plan (**Appendix 1**).

Background

The property is currently utilized for a single detached dwelling which was constructed in 1900 and associated accessory building constructed in 2022, with industrial open/outside storage to the rear of the property. The lands are currently zoned Rural Industrial (M4) within the City of Thorold Comprehensive Zoning Bylaw 60-2019.

The current residential use of the property is not permitted within the M4 zone, according to City's 60-2019 Zoning Bylaw. However, prior to implementation of Zoning Bylaw 60-2019, the property was zoned D1-3 (Dry Industrial Zone), with a site specific provision to permit a single detached dwelling under the 2140(97) Comprehensive Zoning By-law. As the lands, building or structure, on the day the Zoning Bylaw 60-2019 was passed, were lawfully used for a purpose prohibited by the by-law, the existing residential use of the land is legal non-conforming. As such, an application under Section 45(2) of the Planning Act, R.S.O. 1990, C.P.13, as amended, for a minor variance to permit the enlargement of the legal non-conforming use has been made.

Staff acknowledge that the second dwelling unit was constructed prior to the issuance of a building permit, which was discovered at the time of a Residential Rental Licence inspection completed by City of Thorold By-law staff on February 29, 2024. By-law staff advised the property owner that a change of use building permit to allow for the second dwelling unit would be required. The property owner subsequently submitted a building permit for the second dwelling unit on March 6, 2024. Through the Building Permit Intake Planning Review it was determined that a minor variance under Planning Act Section 45(2) to expand the legal non-conforming residential use would be required, prior to the issuance of a building permit.

MINOR VARIANCE PLANNING ANALYSIS:

This application has been submitted pursuant to Section 45(2) of the *Planning Act*, which provides 'Other Powers' to the Committee of Adjustment including:

- (a) where any lands, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,
 - (i) The enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or
 - (ii) The use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the

by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee; or

- (b) where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law.’

Further to the above noted provisions of the *Planning Act*, there is further case law (Fraser v. Rideau Lakes (Township), 2020 Carswell Ontario) which outlines that the test to be applied by the committee is NOT the typical four (4) tests for a minor variance (i.e. is the general intent of the Official Plan and Zoning By-law maintained, are the variances appropriate for the development of the land and are the variances minor). Instead, the committee must determine:

- 1) Whether the proposed expansion is appropriate; and
- 2) Whether it will result in undue adverse impacts on the surrounding neighbourhood.

Finally, under the provisions of the City of Thorold Official Plan (CTOP) Section E2 contemplates non-conforming uses. Specifically Section E2.2 outlines that:

‘If a property occupied by a non-conforming use cannot be acquired or the building(s) relocated, the Committee of Adjustment may, without an amendment to this Plan, allow similar or more compatible extensions or changes to a non-conforming use. Prior to such approval, the Committee shall consider the following:

- a) The size of the extension in relation to the existing operation;
- b) Whether the proposed extension is compatible with the character of the surrounding area;
- c) The characteristics of the existing use in relation to noise, vibration, fumes, dust, smoke, odours, lighting and traffic generation and the degree to which any of these factors may be increased or decreased by the extension; and
- d) The possibilities of reducing these nuisances through buffering, building setbacks, landscaping, Site Plan Control and other means to improve the existing situation, as well as minimize the problems from extension.’

Is the proposed expansion appropriate?

The property is designated as “Rural Industrial” within the City of Thorold Official Plan. The Rural Industrial designation applies to lands designated for employment purposes

that are located outside of the urban area designations and are not connected to the municipal water or sanitary sewer system.

Per Section B2.4.2 q) of the City's Official Plan, existing dwellings and minor expansions thereto are a permitted use on lands designated Rural Industrial. The policy recognizes existing residential uses in the area, and recognizes minor expansions to these uses. In accordance with the policy noted above, the continued and proposed minor expansion of the residential use is supported by the City of Thorold Official Plan policies. Therefore the proposed second dwelling unit meets the general intent of the Official Plan.

As such, staff is of the satisfied that the requested variance is appropriate for the development of the land.

Will the application result in undue adverse impacts on the surrounding neighbourhood?

Property owners have a right to reasonable flexibility, evolution, and expansion of legally nonconforming/noncomplying uses, land, building and structures, provided the evolution or expansion does not cause undue adverse impacts on the surrounding neighbourhood.

Given the long standing residential use of the property (single detached dwelling constructed in 1900), the relative size and scale of the proposed expansion (located entirely within the existing structure), and the continued use of the property for residential purposes since the construction in 1900s with no known conflict or negative impacts with the adjacent industrial uses; it is planning staff's opinion that the proposed expansion to the existing use is not anticipated to cause adverse impacts on the surrounding neighbourhood.

Official Plan Review

Per Section E2.2 of the City's Official Plan, if a property occupied by a non-conforming use cannot be acquired or the building(s) relocated, the Committee of Adjustment may, without an amendment to this Plan, allow similar or more compatible extensions or changes to a non-conforming use. Prior to such approval, the Committee shall consider the following:

- a) The size of the extension in relation to the existing operation;
- b) Whether the proposed extension is compatible with the character of the surrounding area;
- c) The characteristics of the existing use in relation to noise, vibration, fumes, dust, smoke, odours, lighting and traffic generation and the degree to which any of these factors may be increased or decreased by the extension; and,
- d) The possibilities of reducing these nuisances through buffering, building setbacks, landscaping, Site Plan Control and other means to improve the existing situation, as well as minimize the problems from extension.

Once again, given the long standing residential use of the property (single detached constructed in 1900), the relative size and scale of the proposed expansion (located

entirely within the existing structure), and the continued use of the property for residential purposes since the construction in 1900s with no known conflict or negative impacts with the adjacent industrial uses; it is Planning staff's opinion that the proposed expansion to the existing use is not anticipated to cause adverse impacts on the surrounding neighbourhood.

COMMENTS:

Agency & Department Comments

The application was circulated to internal departments and external agencies for comments, which are summarized below. A copy of the agency and department comments received are provided in **Appendix 2**.

The following Departments/Agencies provided comments noting no concerns with the proposal: City Engineering Department, City of Thorold Heritage Advisory Committee (LACAC), Hydro One, Cogeco, GIO Rail, City Tax Department, and TransCanada Pipelines Limited.

The following Departments/Agencies did not provide comments on the proposal: Bell Canada, Niagara Escarpment Commission, Ministry of Transportation Ontario (MTO), Thorold Fire and Emergency Services, Ontario Power Generation, Trillium Railway, Canada Post, District School Board of Niagara, and Niagara Catholic District School Board.

Canadian National Railway (CN)

- CN staff noted that the subject site is within 1000 meters of CN railway operations including the CN Port Robinson East Yard's. CN has concerns of developing/densifying residential uses in proximity to railway operations. Development of sensitive uses in proximity to railway operations cultivates an environment in which land use incompatibility issues are exacerbated. CN, the FCM and RAC have collaborated in the development of Proximity Guidelines in order to promote proper planning around railway operations. The Guidelines can be found at <https://www.proximityissues.ca>. CN encourages the municipality to pursue the implementation of the following criteria as conditions of an eventual project approval:
 - The following clause should be inserted on land title , in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 1000m of the railway right-of-way:
 - “Warning: Canadian National Railway Company or its assigns or successors in interest has or have a right-of-way within 1000 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.”

Niagara Region

- Regional staff noted that they are generally supportive of the development as it is consistent with Provincial and Regional growth management policies, subject to the comments below.
- Regional staff noted that the property is impacted by the Region’s Natural Environment System (“NES”), consisting of a permanent/intermittent stream and its associated riparian (shoreline) area. The property is also mostly mapped as part of the Provincial Natural Heritage System (“PNHS”). Staff noted that the proposed secondary dwelling unit is located outside the setbacks of the environmental features and within the existing dwelling; therefore, staff offer no requirements for the proposed MV from an environmental perspective.
- Regional staff noted that a septic permit was issued in 2021 for the existing septic system located east of the existing dwelling. The permit was oversized for a flow rate of 1,600L/Day. The proposed secondary dwelling unit within the existing single detached dwelling will not add additional flows beyond the approved flow rate of 1,600L/Day, nor will the proposed parking spaces encroach on the existing septic system. Therefore, staff offer no objections to the proposed development from a private servicing perspective as the flow rate will not be increased beyond the approved flow rate of 1,600L/Day and the second dwelling unit will not take away any useable land for a septic system should one be required in the future.

Niagara Peninsula Conservation Authority (NPCA)

- NPCA staff noted the subject property is impacted by regulated watercourses and possible unevaluated wetlands.
- NPCA staff noted that as the secondary dwelling is proposed within the existing residential dwelling the NPCA has no concern and will not require a review fee.
- Should any works be proposed within the regulated features in the future the NPCA will need to be circulated for review and approval and possible work permit.

City Building Department

- City Building staff provided the following comments:

- Building permit required for the construction of the proposed second house on the property.
- Building permit required from the Region of Niagara for the required septic system construction. (Note that a permit will be required from the Ministry of Environment, Conservation and Parks if the daily design flow on the property exceeds 10000 L/day).
- Window and wall serving the proposed entry will require fire protection due to proximity to property line.
- Development charges will need to be paid prior to issuance of a building permit.

Public Comments

The application was also circulated in accordance with the requirements of the Planning Act to property owners within 60 metres of the subject lands. At the time of writing of this report, no public comments have been received.

CONCLUSION:

As provided herein, the subject application has demonstrated that the expansion of the legal non-conforming residential use on the subject property is not anticipated to have an adverse effect or negative impact on surrounding properties, and is otherwise consistent with the Official Plan, PPS and Growth Plan. It is therefore recommended that application D13-14-2024 as presented be approved, without conditions.

Prepared by:

ORIGINAL SIGNED

Connor Maclsaac
Planner, Development Services

Respectfully Submitted By:

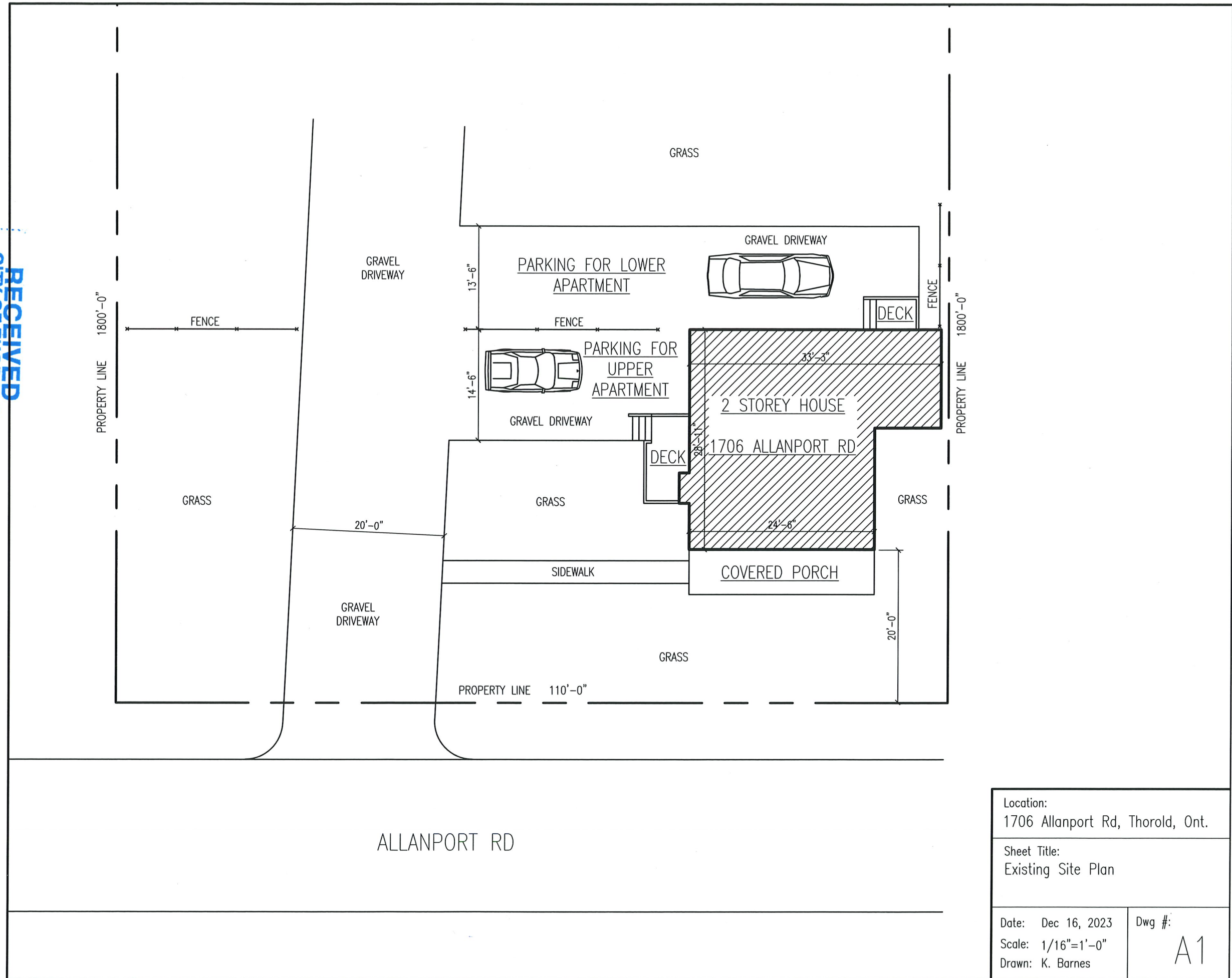
ORIGINAL SIGNED

Marc Davidson
Senior Development Planner,
Development Services



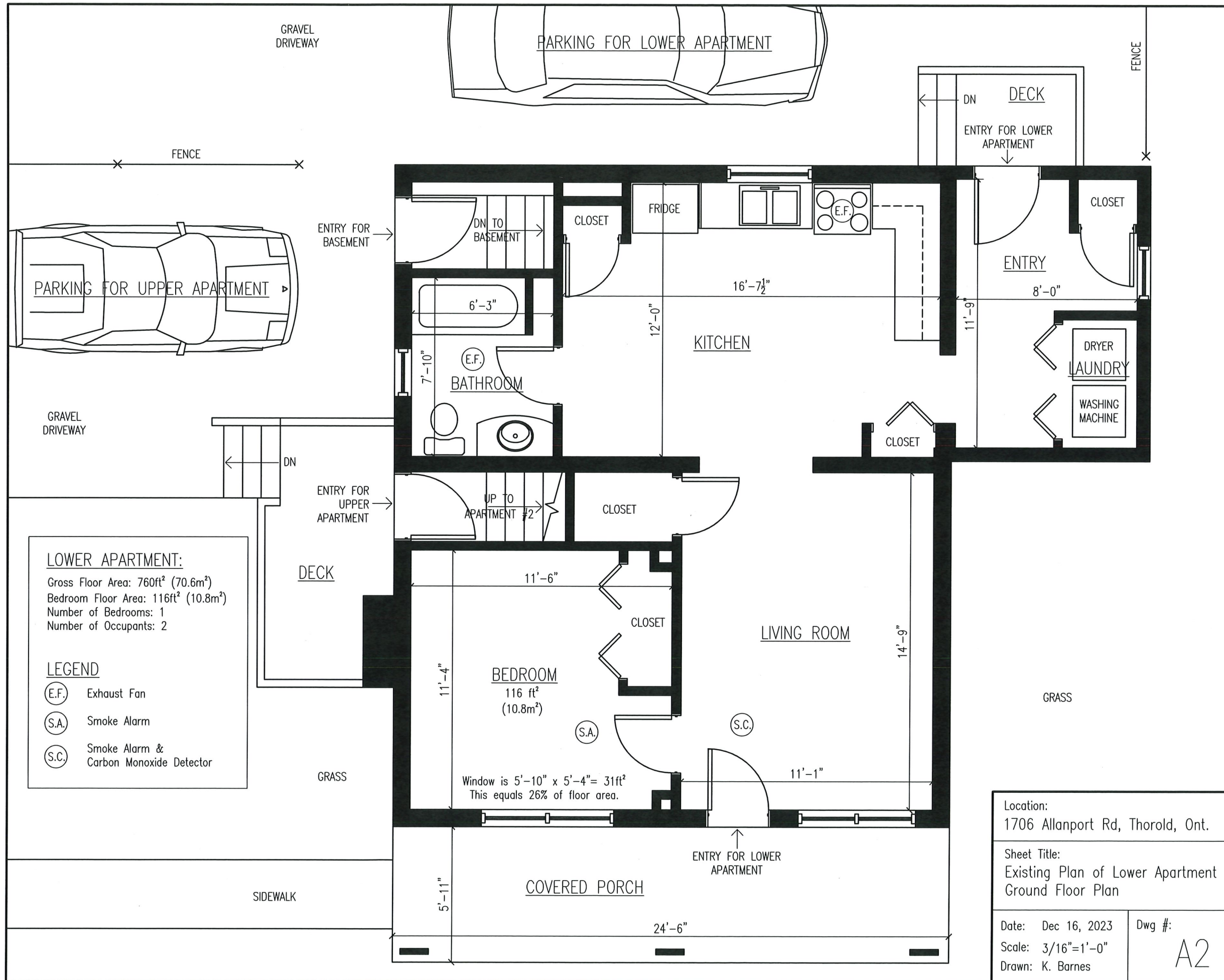
Appendix 1: Site Plan

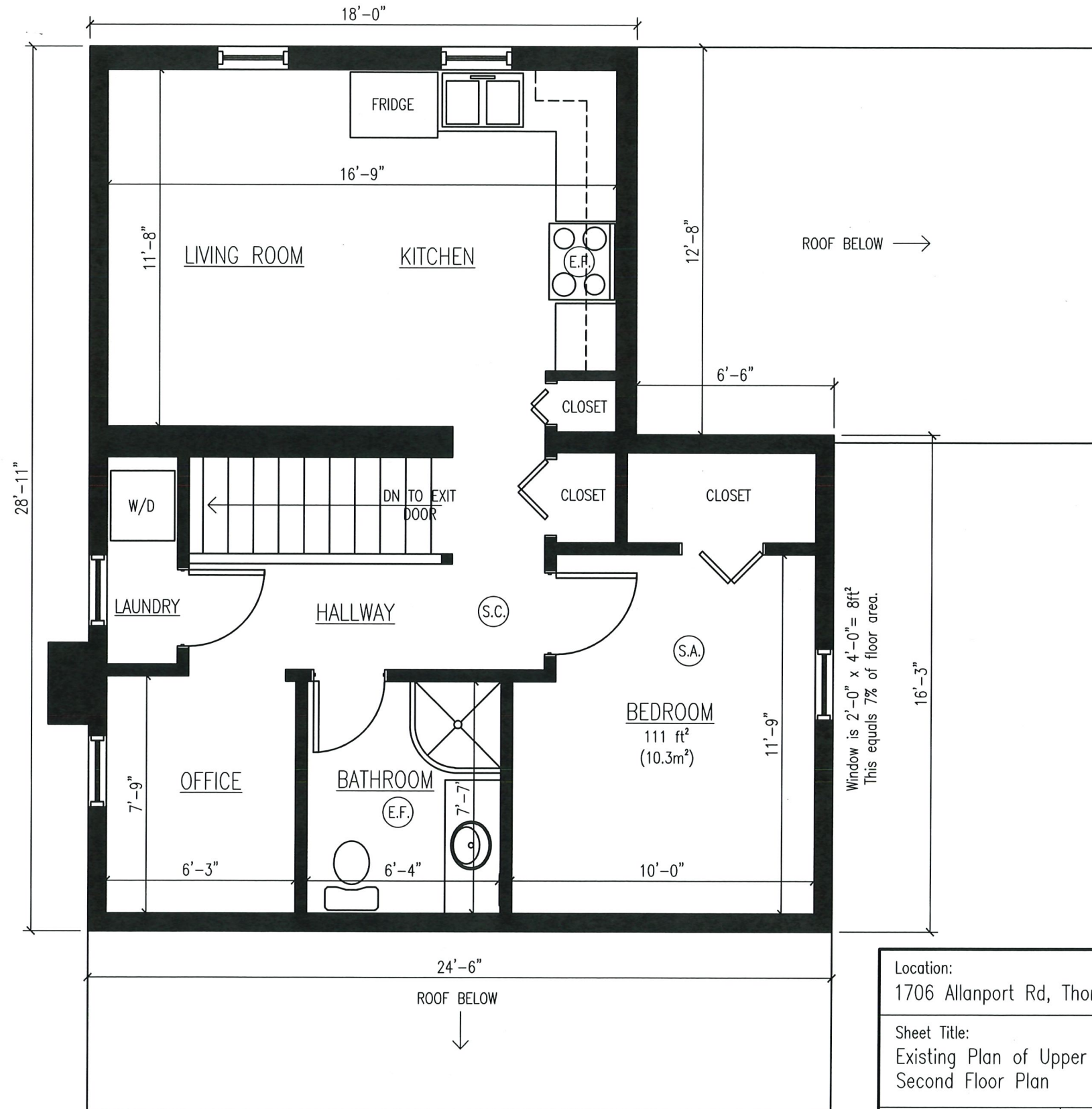
RECEIVED
CITY OF THOROLD
APR 15 2024
PLANNING
& DEVELOPMENT



Location: 1706 Allanport Rd, Thorold, Ont.	
Sheet Title: Existing Site Plan	
Date: Dec 16, 2023	Dwg #:
Scale: 1/16"=1'-0"	A1
Drawn: K. Barnes	

RECEIVED
 CITY OF THOROLD
 APR 15 2024
 PLANNING
 & DEVELOPMENT





UPPER APARTMENT:
 Gross Floor Area: 625ft² (58.1m²)
 Bedroom Floor Area: 111ft² (10.3m²)
 Number of Bedrooms: 1
 Number of Occupants: 2

LEGEND

- (E.F.) Exhaust Fan
- (S.A.) Smoke Alarm
- (S.C.) Smoke Alarm & Carbon Monoxide Detector

Location: 1706 Allanport Rd, Thorold, Ont.	
Sheet Title: Existing Plan of Upper Apartment Second Floor Plan	
Date: Dec 16, 2023	Dwg #:
Scale: 3/16"=1'-0"	A3
Drawn: K. Barnes	



Appendix 2: Agency & Department Comments



CN RAIL COMMENTS

From: [Alexandre Thibault](#) on behalf of [Proximity](#)
To: [Connor MacIsaac](#)
Subject: 2024-06-06_CN updated Comments_Thorold_Allanport Road_1706_D13-14-2024 - Follow-up
Date: June 6, 2024 1:44:48 PM
Attachments: [image001.png](#)
[image020.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.jpg](#)
[image008.jpg](#)
[image009.jpg](#)
[image031.jpg](#)
[image032.jpg](#)
[Bureau Rental plans .pdf](#)

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Hello Connor ,

Thank you for providing more insight on this application . Please disregard our previous comments. We will not ask for a noise assessment and will only require the warning clause. See our updated comments for the minor variance application below .

CN encourages the municipality to pursue the implementation of the following criteria as conditions of an eventual project approval:

- The following clause should be inserted on land title , in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 1000m of the railway right-of-way:

"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a right-of-way within 1000 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."

Thank you and do not hesitate to contact me with any questions.

Best regards,

Alexandre Thibault, B.Sc. Urb

Associé en urbanisme / Urban Planner Associate (CN Proximity)
Urbanisme, Planification & Architecture de Paysage
Urban Planning & Landscape Architecture

E : proximity@cn.ca



wsp.com

From: Connor MacIsaac <Connor.MacIsaac@thorold.ca>
Sent: Wednesday, May 29, 2024 9:34 AM
To: Alexandre Thibault <Alexandre.Thibault@cn.ca>
Cc: Angela Nesbitt <Angela.Nesbitt@thorold.ca>; Tara O'Toole <Tara.O'Toole@thorold.ca>; Salar Zulfiquar <Salar.Zulfiquar@cn.ca>
Subject: RE: 2024-05-22_CN Comments_Thorold_Allanport Road_1706_D13-14-2024 - Follow-up

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Hi Alex,

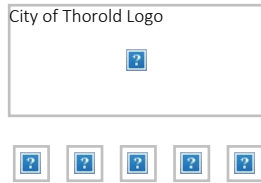
Thanks for providing CN's comments regarding the minor variance application D13-14-2024 to expand the legal non-conforming residential use on the property, through the construction of a second dwelling unit within the existing single detached dwelling. As the existing residential use was permitted under the City's previous zoning by-law 2140-97, the residential use is legal non-conforming under the current zoning. As such, the City interpreted a minor variance to expand the legal non-conforming use would be required to permit the additional unit.

I wanted to clarify that the application is entirely limited to the interior of the existing dwelling. As such, no Site Plan or Site Plan

amendment would be required from a City perspective, and following the approval of the minor variance, the project would move straight to building permit. **Could you please confirm CN would require a noise assessment in this instance?**

Please let us know if you would like to discuss further.

Best,



Connor MacIsaac
Planner
Development Services
City of Thorold
905-227-6613 x251
P.O. Box 1044, 3540 Schmon Parkway, Thorold, ON., L2V 4A7
www.thorold.ca

From: Alexandre Thibault <Alexandre.Thibault@cn.ca> **On Behalf Of** Proximity
Sent: Wednesday, May 22, 2024 11:01 AM
To: Angela Nesbitt <Angela.Nesbitt@thorold.ca>
Subject: 2024-05-22_CN Comments_Thorold_Allanport Road_1706_D13-14-2024

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Hello Angela ,

Thank you for consulting CN on the application mentioned in subject. It is noted that the subject site is within 1000 meters of CN railway operations including the CN Port Robinson East Yard's. CN has concerns of developing/densifying residential uses in proximity to railway operations. Development of sensitive uses in proximity to railway operations cultivates an environment in which land use incompatibility issues are exacerbated. CN, the FCM and RAC have collaborated in the development of Proximity Guidelines in order to promote proper planning around railway operations. The Guidelines can be found at <https://www.proximityissues.ca>. CN encourages the municipality to pursue the implementation of the following criteria as conditions of an eventual project approval:

- The Owner shall engage a consultant to undertake an analysis of noise. Subject to the review of the noise report, the Railway may consider other measures recommended by an approved Noise Consultant.
- The following clause should be inserted on land title , in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 1000m of the railway right-of-way:

"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a right-of-way within 1000 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."
- The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.

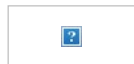
CN anticipates the opportunity to review a detailed site plan, a noise and vibration study taking into consideration the Guidelines.

Thank you and do not hesitate to contact me with any questions.

Best regards,

Alexandre Thibault, B.Sc. Urb

Urbaniste stagiaire / Urban Planner Intern (CN Proximity)
Planning, Landscape Architecture and Urban Design
Urbanisme, architecture de paysage et design urbain



E : proximity@cn.ca
wsp.com

From: Angela Nesbitt <Angela.Nesbitt@thorold.ca>
Sent: Tuesday, May 21, 2024 4:26 PM
To: Bell <circulations@wsp.com>; Bell ROW <ROWCentre@bell.ca>; Canada Post <Andrew.Carrigan@Canadapost.ca>; Proximity <proximity@cn.ca>; Cogeco - Mike Embleton <mike.embleton@cogeco.com>; DSBN - Michelle McPhee (Michelle.McPhee@dsbn.org) <Michelle.McPhee@dsbn.org>; Enbridge <MunicipalPlanning@enbridge.com>; GIO Rail <aaron.white@giorail.com>; Heritage Thorold LACAC - Anne O'Hare <S.14.MFIPPA>; Hydro One -

Brettney Brunton <brettney.brunton@hydroone.com>; Hydro One - Land Use Planning <landuseplanning@hydroone.com>; Hydro One - Quinn Briscall <Quinn.Briscall@HydroOne.com>; Hydro One - Zone 2 scheduling <zone2scheduling@hydroone.com>; MNCFN - Adam LaForme <Adam.LaForme@mncfn.ca>; MTO - Kirandeep Kaur <KIRANDEEP.KAUR2@ontario.ca>; MTO - Usama Ali <Usama.Ali@ontario.ca>; MTO - Usman Akhtar <Usman.Akhtar@ontario.ca>; NCDSB <Planning@ncdsb.com>; NEC - Cheryl Tansony <Cheryl.Tansony@ontario.ca>; NEC - Kendra Adair <Kendra.Adair@ontario.ca>; NPCA - Meghan Birbeck <mbirbeck@npca.ca>; NPCA - Sarah Mastroianni <smastroianni@npca.ca>; NPCA Taran Lennard <tlennard@npca.ca>; OPG <executivevp.lawanddevelopment@opg.com>; Region - Alex Bokestyn <Alex.Bokestyn@niagararegion.ca>; Region - Development Planning <devtplanningapplications@niagararegion.ca>; St. Catharines <sritchie@stcatharines.ca>; TransCanada PipeLines (MHBC on behalf of) <TCEnergy@mhbcpplan.com>; aaron.white-trilliumrailway <aaron.white@trilliumrailway.com>

Subject: Request for comments - City of Thorold Committee of Adjustment June 2024 - Due by Friday, June 7th

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Good afternoon,

The June 2024 City of Thorold Committee of Adjustment Notices of Hearing and application materials can be found here - <https://files.thorold.ca/s/7arw76W8i46BndH> for the consent and minor variance applications listed below:

D13-14-2024	Minor Variance	1706 Allanport Road
D13-15-2024	Minor Variance	1040 Thorold Stone Road
D10-10-2024	Consent	197 St. Davids Road
D13-16-2024	Minor Variance	45 – 53 Harmony Way Block 29
D13-17-2024	Minor Variance	1201 Egarter Road
D10-11-2024	Consent	3 – 5 Hagar Street
D13-18-2024	Minor Variance	3 Hagar Street Part 2
D13-19-2024	Minor Variance	5 Hagar Street Part 1

Please review and provide comments to the undersigned **on or before 4:00 p.m. on Friday, June 7th, 2024.**

Thanking you in advance.

Respectfully,



Angela Nesbitt ACST-A

Planning Clerk
Development Services

City of Thorold

905-227-6613 x259

P.O. Box 1044, 3540 Schmon Parkway, Thorold, ON., L2V 4A7

www.thorold.ca





NIAGARA REGION COMMENTS

Connor Maclsaac

From: Ashley D'Amico
Sent: Friday, June 7, 2024 10:29 AM
To: Connor Maclsaac
Subject: FW: Regional Comments - June Committee of Adjustment
Attachments: Regional Comments - 1706 Allanport Road - 2024-06-07.pdf; Regional Comments - 1201 Egerter Road - 2024-01-18.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

FYI, Regional comments received and saved to the files

Thanks,
Ashley



Ashley D'Amico

Development Coordinator
Development Services

City of Thorold

905-227-6613 x316

P.O. Box 1044, 3540 Schmon Parkway, Thorold, ON., L2V 4A7

www.thorold.ca

From: Boekestyn, Alex <Alex.Boekestyn@niagararegion.ca>
Sent: June 7, 2024 10:20 AM
To: Ashley D'Amico <Ashley.DAmico@thorold.ca>; Angela Nesbitt <Angela.Nesbitt@thorold.ca>
Cc: Development Planning Applications <devtplanningapplications@niagararegion.ca>; Busnello, Pat <pat.busnello@niagararegion.ca>; Haluka, Devon <Devon.Haluka@niagararegion.ca>; Scholten, Yves <Yves.Scholten@niagararegion.ca>
Subject: Regional Comments - June Committee of Adjustment

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Good morning Ashley,

Please see the attached comments for 1706 Allanport Road.

Staff has reviewed the Minor Variance Application for 1201 Egerter Road and note the comments provided in January for City file D13-28-2024 will continue to apply and are attached.

Staff offer no comments for any of the other Committee of Adjustment items.

Should you have any questions please do not hesitate to reach out.

Kind regards,



Alex Bokestyn, MSc

DEVELOPMENT PLANNER

Niagara Region, 1815 Sir Isaac Brock Way, Thorold, ON, L2V 4T7

P : (905) 980 - 6000 ext. 3264

W : www.niagararegion.ca

E : Alex.Bokestyn@niagararegion.ca



My workday may look different from your workday. Please do not feel obligated to respond outside of your normal working hours.

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Growth Strategy and Economic Development

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7

905-980-6000 Toll-free:1-800-263-7215

Via Email Only

June 7, 2024

File Number: PLMV202400610

Angela Nesbitt
Secretary Treasurer, Committee of Adjustment
City of Thorold
P.O. Box 1044, 3540 Schmon Parkway
Thorold, ON L2V 4A7

Dear Ms. Nesbitt:

Re: Regional and Provincial Comments
Application Type: Minor Variance
City File Number: D13-14-2024
Applicant: Robert and Cintia Bureau
Location: 1706 Allanport Road;
City of Thorold

Regional Growth Strategy and Economic Development staff has reviewed the Minor Variance Application for the property municipally known as 1706 Allanport Road in the City of Thorold. The applicant is proposing to expand the existing residential use on the property, through the construction of a second dwelling unit within the existing single detached dwelling. The existing single detached dwelling, however, was established prior to the current zoning and was permitted under the previous Dry Industrial (DI-3) zoning under the City's 2140 (97) Zoning By-law. As such, the existing single detached dwelling is considered a legal non-conforming use under the City's 60-2019 Zoning By-law. In order to facilitate the further development, a minor variance under Section 45(2) of the Planning Act, R.S.O. 1990, c. P.13, as amended, to permit a second dwelling unit within the legal non-conforming use is required.

The following comments are provided to assist the City of Thorold with their review of the proposed Minor Variance Application.

Provincial and Regional Policies

The subject lands are identified as "Rural Lands" in accordance with the *Provincial Policy Statement, 2020* ("PPS") and are designated as "Rural Lands" in *A Place to*

Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation (“Growth Plan”) and the *Niagara Official Plan* (“NOP”). The subject property is also designated as Rural Employment Area in the NOP.

Policy 4.1.8.1 of the NOP states that the predominant use of Rural Lands will continue to be agriculture, but some non-agricultural related development may be permitted.

The NOP provides direction for existing uses within the Agricultural System. Policy 4.1.10.1 of the NOP states that this plan shall not prohibit the continued operation of legally established uses, such as residential, commercial, employment, agricultural, and institutional uses. Further, policy 4.1.10.2 states that expansions to existing buildings, structures accessory structures and existing uses, as well as conversions or redevelopments of legally existing uses that bring the use more into conformity with this Plan, are permitted subject to demonstration of the following:

- a. New municipal services are not required;
- b. The proposal does not expand into key natural heritage features (“KNHF”) and key hydrological features (“KHF”), unless there is no alternative in which case any expansion shall be limited in scope and kept with close geographical proximity to the existing structure;
- c. If applicable, the proposed new use complies with the Specialty Crop Guidelines, as amended from time to time;
- d. For conversions or redevelopments only, the completion of an agricultural impact assessment by a qualified professional;
- e. The proposal does not result in the intrusion of new incompatible uses; and
- f. The proposed use is in accordance with the minimum distance separation.

Staff notes that the proposed development will be located within the existing residential dwelling currently on site. The expansion as proposed, will not require municipal services nor will it expand into KNHF or KHF. Additionally, the development does not result in the intrusion of a new incompatible use; however, it could potentially increase complaints regarding land-use compatibility. Staff note that the residential use currently exists and is considered a legal non-confirming use, as the proposed unit will be located within the existing dwelling it is not expected to result in further land use compatibility concerns.

The subject property is also mapped as a Rural Employment Area in the NOP. Rural employment areas are located on Rural Lands outside of Settlement Areas and are designated for employment uses within Local Official Plans.

The NOP states that expansions to uses within the Rural Land, permitted in the Local Official plan, may be permitted to support the immediate needs of the existing business and if compatible with surrounding uses.

Policy 4.2.8.3 states that any new development within a Rural Employment Area shall be subject to the land use permission of the Local Official Plan and Site Plan Control.

City staff should be satisfied that policy 4.2.8.3 of the NOP is satisfied with respect to the land use provisions of the Local Official Plan.

As such Regional staff is generally supportive of the development as it is consistent with Provincial and Regional growth management policies, subject to the comments below.

Natural Heritage

The subject property is impacted by the Region's Natural Environment System ("NES"), consisting of a permanent/intermittent stream and its associated riparian (shoreline) area. The property is also mostly mapped as part of the Provincial Natural Heritage System ("PNHS").

NOP policy 3.1.5.7.1 requires the completion of an Environmental Impact Study ("EIS") when development or site alteration is proposed within 120 m of a KNHF/KHF. Further, NOP policies require that a minimum 30 m Vegetation Protection Zone ("VPZ") be established as natural self-sustaining vegetation adjacent to any permanent/intermittent stream or watercourse. Development or site alteration is generally not permitted within a KHF or its VPZ.

Staff notes that the proposed secondary dwelling unit is located outside the above-noted setback and within the existing dwelling; therefore, staff offer no requirements for the proposed MV from an environmental perspective.

For information purposes, please note the following:

1. NOP policy 3.1.5.8.1 states that the following applies within the PNHS, regardless of whether the site is in a KNHF, KHF, VPZ or adjacent lands:
 - a. New development or site alteration within a PNHS shall demonstrate that the disturbed area will not exceed 25% of the total developable area, the impervious surface will not exceed 10%, and at least 30% of the total developable area will remain or be returned to natural self-sustaining vegetation.
2. Staff note that any future development or site alteration application may be required to demonstrate compliance with the policies above, and/or may require the support of an EIS or similar environmental study.

Private Servicing

Regional staff issued a septic permit in 2021 for the existing septic system located east of the existing dwelling. The permit was oversized for a flow rate of 1,600L/Day. The proposed secondary dwelling unit within the existing single detached dwelling will not add additional flows beyond the approved flow rate of 1,600L/Day, nor will the proposed parking spaces encroach on the existing septic system.

Therefore, staff offer no objections to the proposed development from a private servicing perspective as the flow rate will not be increased beyond the approved flow rate of 1,600L/Day and the second dwelling unit will not take away any useable land for a septic system should one be required in the future.

Conclusion

Regional Growth Strategy and Economic Development staff do not object to the proposed Minor Variance Application as the proposal is consistent with the PPS and conforms to Provincial and Regional policies.

Please send copies of the staff report and notice of the City's decision on these applications. If you have any questions related to the above comments, please contact me at alex.boekestyn@niagararegion.ca

Kind regards,



Alex Boekestyn M.Sc.
Development Planner

cc: Pat Busnello, MCIP, RPP, Manager of Development Planning, Niagara Region
Yves Scholten, Planning Ecologist, Niagara Region
Devon Haluka, Private Sewage System Inspector, Niagara Region



NIAGARA PENINSULA CONSERVATION AUTHORITY COMMENTS

Angela Nesbitt

From: Meghan Birbeck <mbirbeck@npca.ca>
Sent: Thursday, May 23, 2024 4:56 PM
To: Angela Nesbitt
Subject: NPCA Response Regarding Thorold's June COA Hearing - 1706 Allanport Rd

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Angela,

Thank you for sending the NPCA the June COA Hearing information for 1706 Allanport Rd.

The subject property is impacted by regulated watercourses and possible unevaluated wetlands.

The provided materials note that a minor variance is to expand the existing residential use on the property, through the construction of a second dwelling unit within the existing single detached dwelling.

As the secondary dwelling is proposed within the existing residential dwelling the NPCA has no concern and will not require a review fee.

Should any works be proposed within the regulated features in the future the NPCA will need to be circulated for review and approval and possible work permit.

Best,
Meghan



Meghan Birbeck (MS)

Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)

3350 Merrittville Highway, Unit 9, Thorold, Ontario L2V 4Y6

905.788.3135 Ext 278

www.npca.ca

mbirbeck@npca.ca

From: Angela Nesbitt <Angela.Nesbitt@thorold.ca>

Sent: Tuesday, May 21, 2024 4:26 PM

To: Bell <circulations@wsp.com>; Bell ROW <ROWCentre@bell.ca>; Canada Post <Andrew.Carrigan@Canadapost.ca>; CN <proximity@cn.ca>; Cogeco - Mike Embleton <mike.embleton@cogeco.com>; DSBN - Michelle McPhee (Michelle.McPhee@dsbn.org) <Michelle.McPhee@dsbn.org>; Enbridge <MunicipalPlanning@enbridge.com>; GIO Rail <aaron.white@giorail.com>; Heritage Thorold LACAC - Anne O'Hare <S. 14 MFIPPA>; Hydro One - Brettney Brunton <brettney.brunton@hydroone.com>; Hydro One - Land Use Planning <landuseplanning@hydroone.com>; Hydro One - Quinn Briscall <Quinn.Briscall@HydroOne.com>; Hydro One - Zone 2 scheduling <zone2scheduling@hydroone.com>; MNCFN - Adam LaForme <Adam.LaForme@mncfn.ca>; MTO - Kirandeep Kaur <KIRANDEEP.KAUR2@ontario.ca>; MTO - Usama Ali <Usama.Ali@ontario.ca>; MTO - Usman Akhtar <Usman.Akhtar@ontario.ca>; NCDSB <Planning@ncdsb.com>; NEC - Cheryl Tansony <Cheryl.Tansony@ontario.ca>; NEC

- Kendra Adair <Kendra.Adair@ontario.ca>; Meghan Birbeck <mbirbeck@npca.ca>; Sarah Mastroianni <smastroianni@npca.ca>; Taran Lennard <tlennard@npca.ca>; OPG <executivevp.lawanddevelopment@opg.com>; Region - Alex Boekestyn <Alex.Boekestyn@niagararegion.ca>; Region - Development Planning <devtplanningapplications@niagararegion.ca>; St. Catharines <sritchie@stcatharines.ca>; TransCanada PipeLines (MHBC on behalf of) <TCEnergy@mhbcpplan.com>; Trillium Railway <aaron.white@trilliumrailway.com>
Subject: Request for comments - City of Thorold Committee of Adjustment June 2024 - Due by Friday, June 7th

Good afternoon,

The June 2024 City of Thorold Committee of Adjustment Notices of Hearing and application materials can be found here - <https://files.thorold.ca/s/7arw76W8i46BndH> for the consent and minor variance applications listed below:

D13-14-2024	Minor Variance	1706 Allanport Road
D13-15-2024	Minor Variance	1040 Thorold Stone Road
D10-10-2024	Consent	197 St. Davids Road
D13-16-2024	Minor Variance	45 – 53 Harmony Way Block 29
D13-17-2024	Minor Variance	1201 Egerter Road
D10-11-2024	Consent	3 – 5 Hagar Street
D13-18-2024	Minor Variance	3 Hagar Street Part 2
D13-19-2024	Minor Variance	5 Hagar Street Part 1

Please review and provide comments to the undersigned **on or before 4:00 p.m. on Friday, June 7th, 2024.**

Thanking you in advance.

Respectfully,



Angela Nesbitt ACST-A

Planning Clerk
Development Services

City of Thorold

905-227-6613 x259

P.O. Box 1044, 3540 Schmon Parkway, Thorold, ON., L2V 4A7

www.thorold.ca

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IMPORTANT NOTICE

Effective April 15, 2024 the Niagara Peninsula Conservation Authority head office has moved to 3350 Merrittville Highway, Thorold Ontario L2V 4Y6



CITY OF THOROLD BUILDING COMMENTS

Angela Nesbitt

From: Jason Simpson
Sent: Monday, May 27, 2024 9:52 AM
To: Angela Nesbitt
Subject: RE: Request for comments - Committee of Adjustment - JUNE 2024 - Due by Friday, June 7th

Angi

Please find comments from the Building Division below.

D13-14-2024 Minor Variance 1706 Allanport Road

- Building permit required for the construction of the proposed second house on the property.
- Building permit required from the Region of Niagara for the required septic system construction. (Note that a permit will be required from the Ministry of Environment, Conservation and Parks if the daily design flow on the property exceeds 10000 L/day)
- Window and wall serving the proposed entry will require fire protection due to proximity to property line.
- Development charges will need to be paid prior to issuance of a building permit.

D13-15-2024 Minor Variance 1040 Thorold Stone Road

- No concerns from the Building Division

D10-10-2024 Consent 197 St. Davids Road

- No concerns from the Building Division

D13-16-2024 Minor Variance 45 – 53 Harmony Way Block 29

- No concerns from the Building Division

D13-17-2024 Minor Variance 1201 Egerter Road

- Building permit required prior to construction of the proposed additions
- Permit required for the expansion of on-site sewage system

D10-11-2024 Consent 3 – 5 Hagar Street

- No concerns from the Building Division

D13-18-2024 Minor Variance 3 Hagar Street Part 2

- No concerns from the Building Division

D13-19-2024 Minor Variance 5 Hagar Street Part 1

- No concerns from the Building Division