



Planning Report

To: Municipality of Brockton Committee of Adjustment

From: Benito Russo, Intermediate Planner

Date: March 18, 2025

Re: Minor Variance Application - A-2024-048 (Spitzig)

Recommendation:

Subject to a review of submissions arising from the public meeting:

That Committee approve Minor Variance A-2024-048 as attached subject to the conditions on the decision sheet.

Summary:

The purpose of this application is for a Minor Variance. It is proposed to recognize the existing building's setbacks on the subject lands. The reduced setbacks include, 5.8m to an exterior roadway and 6.3m to an abutting lot, wherein a setback of 7.5m is required. If approved, this will legally recognize all existing setbacks and facilitate the related Consent for new lot creation.

The subject property has a civic address 310 Durham St and 6 Spitzig Ave. It is located within Walkerton on the Southeast corner of Durham St W and Spitzig Ave, and is surrounded by residential, institutional, and natural area land uses.

The subject property is developed with twenty-four (24) townhouse units and one (1) accessory building. Within the existing parcel, several of the units do not comply with the Zoning By-law setback requirements to abutting lots, and exterior roadways. The non-compliance with the provisions of the Zoning by-law has been attributed to a combination of a portion of the units being constructed before vs after updates to the comprehensive Zoning By-law that occurred in 2013 requiring increased setbacks, and errors in building construction/locates at the time of construction.

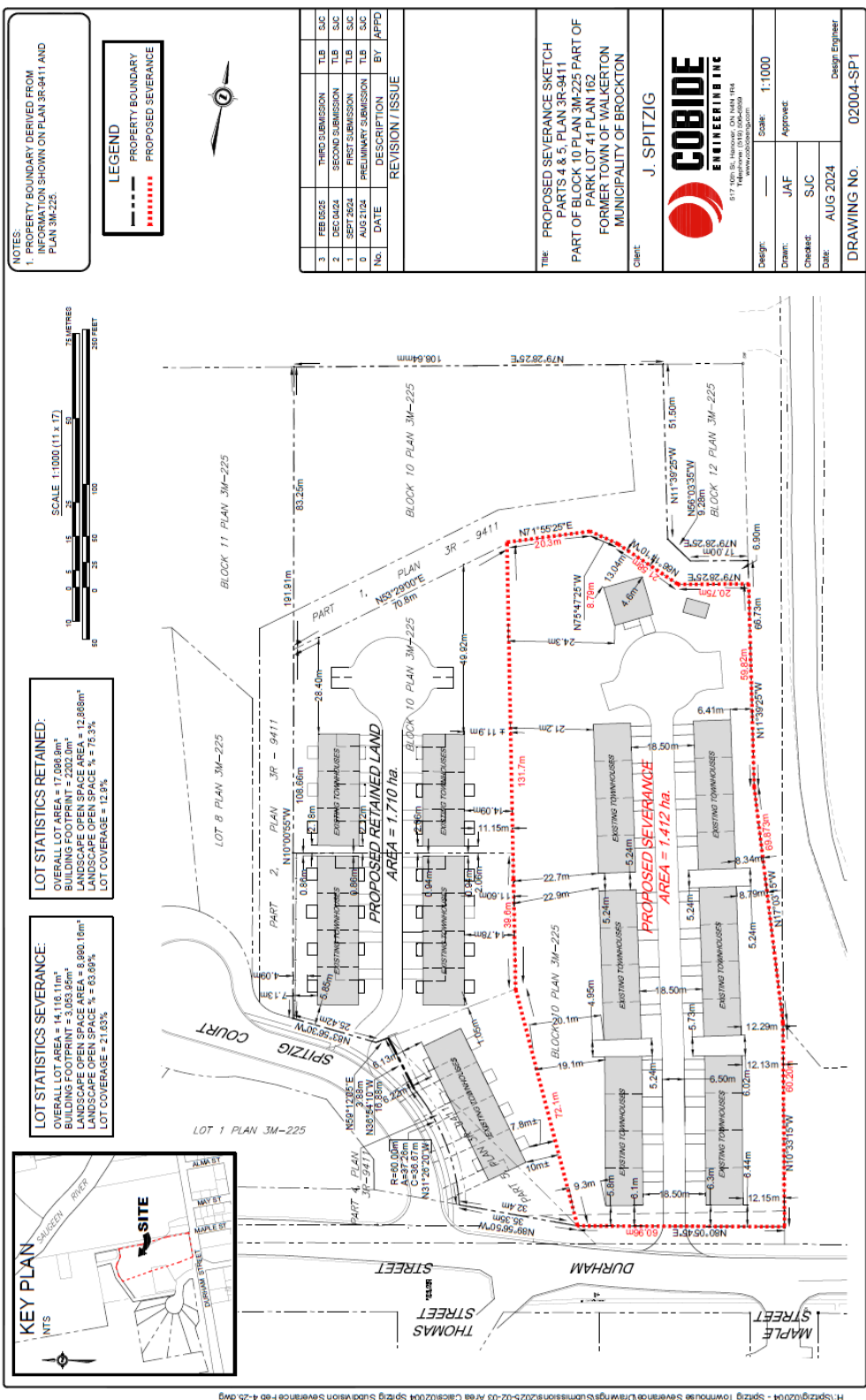
The related Consent file B-2024-065 does not propose, or result in, any further reductions to the required yard setbacks than what exists today. The Consent will be considered by the County at a later date.

Airphoto



352 Durham St W & 6 Spitzig Ave
PLAN 3M225 BLK 10 PLAN 162; PT ROAD AND RP 3R9411 & PLAN 162 PARK PT LOT 41
Municipality of Brockton
Roll Number(s): 410436000503434 & 410436000503000

Site Plan Overview



[illegible]

Planning Analysis:

The following section provides an overview of the planning considerations that were factored into the staff recommendation for this application, including relevant agency comments (attached), and planning policy sections.

Local Official Plan

The Walkerton Community Official Plan Consent to sever land policies detail that the municipality shall not support Consent applications that do not conform with the policies of the Official Plan and/or the provisions of the comprehensive Zoning By-law. As a portion of the existing buildings were not constructed in accordance with the Zoning By-law provisions, a Minor Variance to recognize the existing setbacks must first be granted prior to the Consent application being considered.

Four Tests of a Minor Variance

Section 45(1) of the *Planning Act* gives the authority of granting minor relief from the provisions of the Zoning By-law to the Committee of Adjustment. Such relief can only be granted if the Minor Variance passes four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

Does the variance maintain the intent and purpose of the Official Plans?

The Bruce County Official Plan designates the property as Primary Urban Communities and the Walkerton Community Official Plan designates the property as Residential, and Environmental Protection. Outside of environmental constraints, both Official Plans direct for a wide variety of residential uses within these designations. The existing fully serviced development contributes to the official plan objectives to accommodate a range of housing types and densities, a diversity of lifestyles, age groups, income levels.

The application maintains the intent and purpose of the Official Plan.

Does the variance maintain the intent and purpose of the Zoning By-law?

The area of the variance is located within the Residential Medium Density (R3) Zone. The proposed variance is to recognize the existing buildings and structures to be in conformance with the Zoning By-law requirements. It is identified that the existing Zoning deficiencies include:

- A reduced setback of the end side wall of 5.8m to an exterior roadway and 6.3m to an abutting lot, wherein a setback of 7.5m is required.

The intent of these setbacks is generally to provide amenity space within the development, and a standard of separation from residential dwellings to roads for higher density developments.

Given the R3 Zone permits a lot coverage of 45%, that the severed and retained lands are proposed to have a lot coverage of 21% and 13%, respectively, adequate amenity space is available.

While cluster townhomes are a more compact form of development and can generally be of a greater height and density, requiring greater lot line setbacks, the existing residences are a single storey in height. Based on the existing form and density of the development, a reduced end side wall setback to an external roadway does not impact functionality. In addition, this setback is not uncommon for the area as other residences and the downtown core are in the vicinity which both have lesser setbacks to a road than the subject property.

The application maintains the purpose and intent of the Zoning By-law.

[Is the application desirable for the appropriate development of the land, building or structure?](#)

The subject lands are designated and zoned for residential development and the development is currently an existing purpose-built rental development in the community of Walkerton. The proposed variance would permit the buildings to continue in their current form. Regarding desirability, the existing development contributes to the availability, range, and mix of residential units within the community.

The proposal is desirable for the continued use of the existing development.

[Is the application minor in nature?](#)

Whether a variance is minor is evaluated in terms of the impact the proposed development is expected to have on the surrounding neighbourhood. It is not expected that permitting the variance will have any impact on the character of the area or impact the ability of adjacent property owners to use their property for permitted uses.

The variance is considered minor.

[Natural Heritage and Hazards](#)

A portion of the subject lands are designated Environmental Protection and zoned Open Space with the Walkerton Community Official Plan and Brockton Zoning By-law.

The location of the existing buildings and structures are outside of areas designated as environmental protection. In addition, as there are no proposed changes to the current use, and no new buildings or structures proposed, it can be anticipated that any impacts resulting from the proposed applications is negligible.

[Archaeological Resources](#)

The subject lands are identified within the Bruce County screening maps as containing high archaeological potential. These areas are consistent with the Ontario Ministry of Tourism and Culture Criteria for Evaluating Archaeological Potential.

The subject lands have been substantially disturbed through the installation of services, stormwater management and grading applications, and development of the exiting residences and accessory building. No archaeological works are recommended.

Access and Servicing

Every new lot is required to have access to an open and maintained public road. Through staff review that the proposed consent, portions of the property are held under two different Lands and Titles systems, and this may complicate requirements for road access. A legal opinion was provided that the retained lands, being PIN 33196-0070 and the western portion of Block 10 3M225, will merge by operation of the Planning Act if held in common ownership upon the proposed severed parcel's final approval.

This satisfies the requirement for municipal road access.

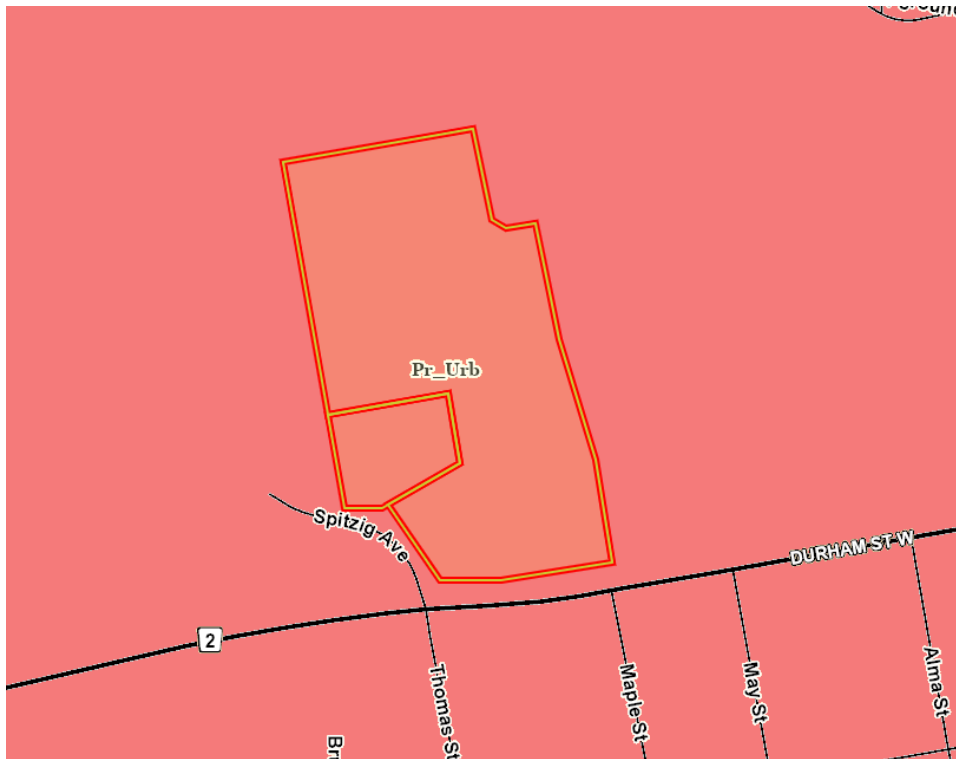
Comments from the Corporation of the Municipality of Brockton indicate that there is a registered site plan control agreement on title for the subject lands. Specific attention is directed to the agreement stipulations regarding waste collection, and the stormwater management pond.

The proposed Minor Variance does not impact this agreement. Through the related application for new lot creation, a site plan agreement is required to be registered on title for both the retained and severed lands as a condition of Consent. This will ensure that the existing conditions for waste collection and management of the stormwater management pond continues.

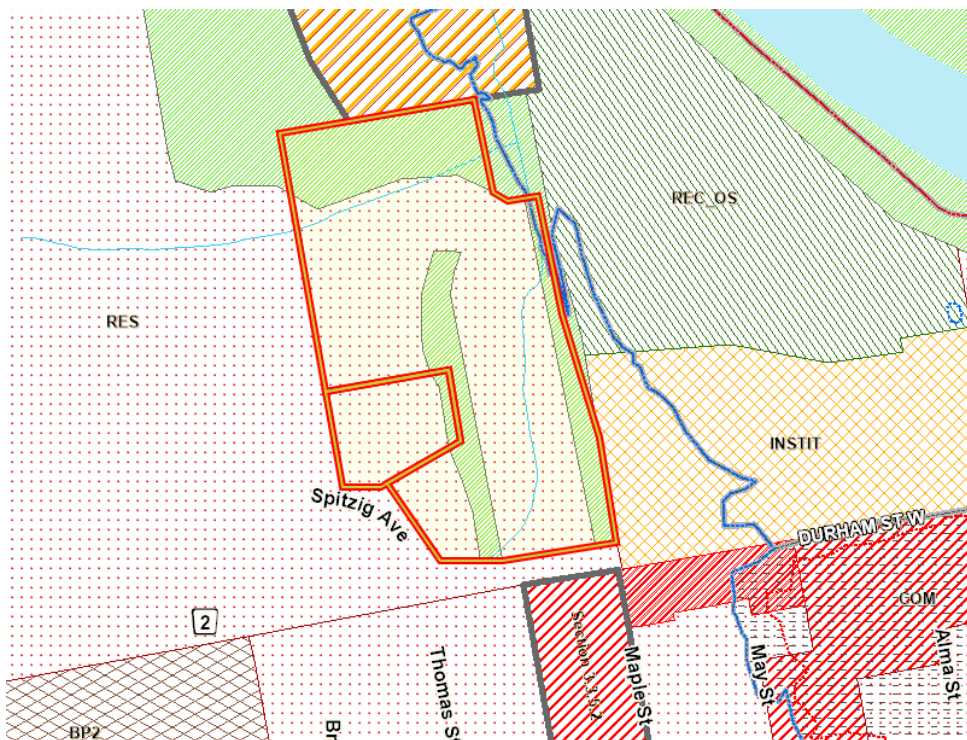
Appendices

- County Official Plan Map
- Local Official Plan Map
- Local Zoning Map
- List of Supporting Documents
- Agency Comments
- Public Comments
- Public Notice

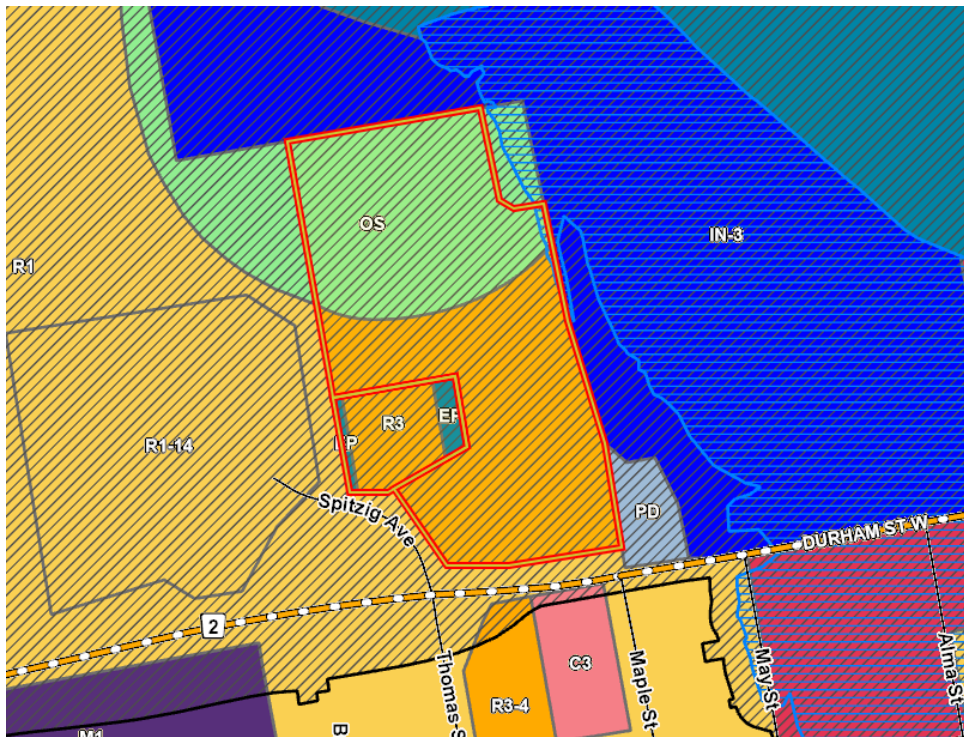
County Official Plan Map (Designated Primary Urban Areas)



Local Official Plan Map (Designated Residential and Environmental Protection)



Local Zoning Map (Zoned R3 - Residential Medium Density, OS - Open Space, and EP - Environmental Protection)



List of Supporting Materials

Legal Opinion - Prepared by Kelly & Kelly - Dated January 8th, 2025

Agency Comments

The Corporation of the Municipality of Brockton:

Operations:

The Municipality of Brockton does not provide curbside garbage or recycling collection on the subject private drive. The current owner entered into a separate agreement with the contractors to collect curbside at each residence. That agreement may not exist upon sale and landowner would be required to bring all garbage and recycling to Durham Street for collection.

Furthermore, any future owners should be aware of the Site Plan Agreement, specifically Section 3 Stormwater Management Pond:

3.1 The Stormwater Management Pond located on Block 12 as Shown on Plan 3M- that services both the Multi-Family Block located on Block 10 on Plan 3M- and the subdivision located on Plan 3M- will be owned by the Municipality of Brockton.

3.2 The Municipality of Brockton reserves the right to erect a fence around the Stormwater Management Pond on municipal lands at any time in the future as shown on Schedule "C" to this Agreement.

3.3 If the Stormwater Management Pond requires maintenance after the erection of the fence, the Municipality of Brockton shall provide the Owner of the Multi-Family Block with 30 days written notice to have the fence removed to allow the Municipality of Brockton to conduct maintenance of the Stormwater Management Pond.

3.4 The cost of the removal and replacement of the fence, to the requirements of the Municipality of Brockton, is that of the Owner of the subject lands.

3.5 If in the event the fence around the Stormwater Management Pond is not removed by the date stipulated by the Municipality of Brockton, the Municipality will have the right to remove the fence and reinstall it after the Stormwater Management Pond maintenance, with all costs for the fence removal/replacement being borne by the Owner of the subject lands.

3.6 If in the event the fence around the Stormwater Management Pond is not erected within 30 days of the Municipality giving notice to the Owner to erect the fence as originally installed, the Municipality will have the right to re-install the fence with all costs for the fence replacement being borne by the Owner.

Building/ Planning:

For the related Consent, a that a condition be added to require the Site Plan Agreement be registered on title for both the retained and severed parcel and the associated cost with the registration are at the owner's expense.

Historic Saugeen Métis: No objection.

Saugeen Valley Conservation Authority: The application is acceptable to SVCA staff. Full comments are attached below.

Transportation & Environmental Services: No comment.

Public Comments

No public comments have been received at the time of this report's submission.

SENT ELECTRONICALLY: brusso@brucecounty.on.ca and bcplwa@brucecounty.on.ca

February 28, 2025

County of Bruce Planning & Development Department
30 Park Street
Walkerton, Ontario N0G 2V0

ATTENTION: Benito Russo, Planner

Dear Benito Russo,

RE: Proposed Consent to Sever: B-2024-064 and Minor Variance A-2024-048
310 Durham Road West
Roll No. 410436000503434
Plan 3M225, Block 10, Plan 162 Parts 4 and 5, Part Road Plan 3R9411
Geographic Town of Walkerton
Municipality of Brockton

The above-noted applications have been received by the Saugeen Valley Conservation Authority (SVCA) in accordance with the Mandatory Programs and Services Regulation (Ontario Regulation 686/21) made under the *Conservation Authorities Act* (CA Act). SVCA staff have reviewed the proposal for consistency with SVCA's environmental planning and regulation policies (https://www.saugeenconservation.ca/en/permits-and-planning/resources/Environmental-Regulations/January-2019-Consolidated-Manual_Interim.pdf) made in conformance with the Provincial Planning Statement, CA Act, O. Regulation 41/24, and associated provincial guidelines. Where a Memorandum of Agreement (MOA) exists between a planning partner and the SVCA, staff have reviewed the applications for conformity with the natural hazard policies of the County of Bruce Official Plan (OP).

The purpose of the applications are for new lot creation. It is proposed to sever +/-1.4-hectares (ha) parcel with a frontage of +/-60m. The retained parcel will have an area of +/-1.7ha with a frontage of +/-32m. If approved, this would result in a new +/- 1.4 ha lot containing the existing 24 residential units, and the retained lands (+/-1.7 ha) containing the existing 18 residential units. A Minor Variance application is required to recognize the existing building's setbacks on the subject lands.

Recommendation

The applications are generally acceptable to SVCA staff.

Documents Reviewed by Staff

Staff have received and reviewed the following documents submitted with this application:

- 1) Request for Agency Comments, dated February 14, 2025;
- 2) Application with received date of August 23, 2024;
- 3) Planning Justification Letter by Cobide Engineering Inc. dated February 4, 2024; and
- 4) Severance Sketch, revision 3 dated February 5, 2025, by Cobide Engineering Inc.

Site Characteristics

SVCA mapping shows that the entire property is within the SVCA Regulated Area. Based on SVCA mapping, the natural hazard features affecting the property include part of the flood of the main Saugeen River, and its related valley slope.

The natural hazard feature of floodplain is shown on Schedule A of the Municipality of Brockton OP. SVCA note that there are areas in the proposed western parcel (parcel to be retained) zoned as EP zone in the Municipality of Brockton Zoning By-law. The EP zone is not identifying any natural hazard features, and therefore, SVCA has no objection with the EP zone being removed at the next update to the zoning by-law.

Provincial Planning Statement (PPS, 2024)

In accordance with s. 7 of O. Regulation 686/21, SVCA shall act on behalf of the Province or as a public body under the *Planning Act* (PA) to ensure municipal decisions made under the PA are consistent with the natural hazards policies of the PPS, Chapter 5.

Chapter 5.1 of the PPS, 2024 states in part that development shall be directed away from areas of natural or human-made hazards where there is an unacceptable risk to ...and not create new or aggravate existing hazards.

It is the opinion of the SVCA that the proposal is consistent with Chapter 5.1 and 5.2 of the PPS, 2024.

Bruce County Official Plan Policies

The following comments are made in accordance with the MOA with the County of Bruce.

Section 5.8 of the Bruce County OP states in part that development should not be located within the Hazard Lands designation. It is the opinion of SVCA staff that the application is consistent with section 5.8 of the Bruce County OP and section 3.7 of the Municipality of Brockton OP.

Conservation Authorities Act and O. Regulation 41/24

Within SVCA's regulated areas and in accordance with the CA Act and O. Regulation 41/24, a permit from the SVCA is required to change or interfere with watercourses or wetlands and for development activities in or adjacent to hazardous lands, wetlands, river or stream valleys, Great Lakes and inland lake shorelines. When reviewing an application, SVCA staff must assess the proposal for impacts to the control of flooding, erosion, dynamic beaches, or unstable soil or bedrock, and ensure the activity will not create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property. Provided staff are satisfied the proposal is consistent with SVCA's policies, designed to mitigate these risks, a permit can be issued.

The entire property is within the SVCA Approximate Regulated Area associated with the SVCA's Prohibited Activities, Exemptions and Permits Regulation (Ontario Regulation 41/24).

For the property, the SVCA Approximate Regulated Area includes the main Saugeen River, its floodplain, and the valley slope of the river.

To determine the SVCA Approximate Regulated Area on the property, please refer to the SVCA's online mapping, available via SVCA's website

<https://camaps.maps.arcgis.com/apps/webappviewer/index.html?id=f0ec744c8d6d4e499895aaaab3d83761>.) Should you require assistance, please contact our office directly.

SVCA Permit

In accordance with SVCA's policies made under the CA Act and O. Regulation 41/24, no new buildings or structures are proposed, and so a permit from the SVCA is not required.

Drinking Water Source Protection

The subject property appears to SVCA staff to not be located within an area that is subject to the local Drinking Water Source Protection Plan.

Summary

SVCA staff have reviewed the proposal for consistency with SVCA's policies made in conformance with the Provincial Planning Statement, CA Act, O. Regulation 41/24, and associated provincial guidelines. Where a Memorandum of Agreement (MOA) exists between a planning partner and the SVCA, staff have reviewed the application for conformity with the natural hazard policies of the County of Bruce OP and Municipality of Brockton OP.

Given the above comments, it is the opinion of the SVCA staff that:

- 1) Consistency with the Natural Hazard policies of the PPS, Chapter 5 has been demonstrated.
- 2) Consistency with local planning policies for natural hazards has been demonstrated.

Please inform this office of any decision made by the County of Bruce regarding the applications. We respectfully request to receive a copy of the decisions and notice of any appeals filed.

Should you have any questions, or require this information in an accessible format, please contact the undersigned.

Sincerely,

Michael Oberle
Environmental Planning Technician
Saugeen Conservation
MO/

cc: Fiona Hamilton, Clerk, Municipality of Brockton (via email)
Gregory McLean, SVCA member representing the Municipality of South Bruce (via email)



County of Bruce
Planning & Development Department
30 Park Street, Box 848
Walkerton, ON N0G 2V0
brucecounty.on.ca
226-909-5515



February 14, 2025

File Number(s): A-2024-048

Public Hearing Notice

**You're invited to participate in a Public Hearing
to consider a Minor Variance / file # A-2024-048
Tuesday, March 18, 2025 at 7:00 p.m.**

A change is proposed in your neighbourhood: The purpose of this application is for a Minor Variance. It is proposed to recognize the existing building's setbacks on the subject lands. The reduced setbacks include, 5.8m to an exterior roadway and 6.3m to an abutting lot, wherein a setback of 7.5m is required. If approved, this will legally recognize all existing setbacks and facilitate the related Consent for new lot creation.

The related consent file is B-2024-065



310 DURHAM ST W

PLAN 3M225 BLK 10
PLAN 162;PT ROAD
AND RP 3R9411
PARTS;4 AND 5
(Walkerton Town)

Municipality of
Brockton

Roll Number:
410436000503434

Learn more

Additional information about the application is available online at <https://www.brucecounty.on.ca/active-planning-applications>. Information can also be viewed in person at the County of Bruce Planning Office noted above, between 8:30 a.m. and 4:30 p.m. (Monday to Friday).

The Planner on the file is: Benito Russo

Have your say

Comments and opinions submitted on these matters, including the originator's name and address, become part of the public record, may be viewed by the general public and may be published in a Planning Report and Council Agenda. Comments received after March 8, 2025 may not be included in the Planning report, but will be considered if received prior to a decision being made, and included in the official record on file.

1. Please contact us by email bcplwa@brucecounty.on.ca, mail, or phone (226-909-5515) if you have any questions, concerns or objections about the application.
2. You can participate in the public hearing. For information on how to participate in the public meeting, please visit the municipal website at: <https://www.brockton.ca/en/our-services/Current-Council-Meeting-Agenda>.

How to access the public hearing

For information on how to participate in the public meeting, please visit the municipal website at www.brockton.ca under "Current Council Meeting Agenda".

Please contact the Municipality at fhamilton@brockton.ca or 519-881-2223 if you have any questions regarding how to participate in the meeting.

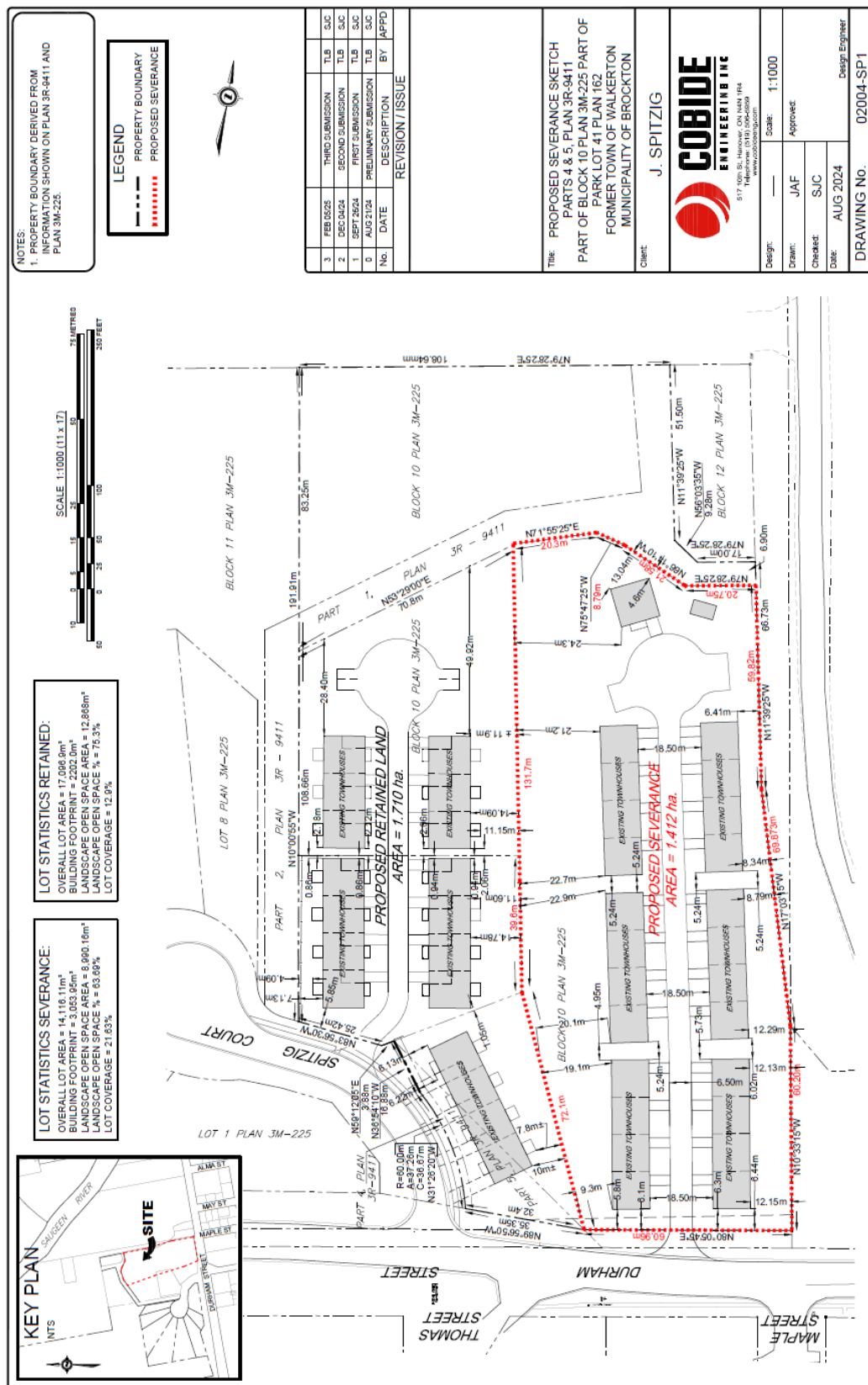
Stay in the loop

If you'd like to be notified of the decision of the Committee of Adjustment on the proposed application(s), you must make a written request to the Bruce County Planning Department on behalf of the Secretary-Treasurer for the Committee of Adjustment.

Know your rights

Only the applicant, the Minister, a specified person (being a utility and transportation company) or public body that has an interest in the matter may within 20 days of the making of the decision appeal to the Tribunal against the decision of the Committee by filing with the Secretary-Treasurer of the Committee a notice of appeal setting out the objection to the decision and the reasons in support of the objection. Appeals must be accompanied by payment of the fee charged by the Tribunal as payable on an appeal from a Committee of Adjustment decision to the Tribunal. For more information, please visit the Ontario Land Tribunal website at <https://olt.gov.on.ca/appeals-process/>.

Site plan



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