

## Report

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

**From:** Brandon Ward, MCIP, RPP  
Manager of Planning, Infrastructure Services

**Date:** March 3, 2021

**Subject:** **Consent Application File No. B-02/21**  
**100 Fifth Avenue**

**Applicant:** Fiera Real Estate Core Fund GP Inc. c/o Dillon Consulting Limited

**Official Plan Designation:**  
**'General Commercial' (Schedule 'A'), Special Policy E8.25**

**Zoning (By-law 22-90):**  
**'General Commercial (C1) Zone', Special Provision 24.83**

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### 1. Introduction

The Agent, Dillon Consulting Limited, has applied on behalf of the owner, Fiera Real Estate Core Fund GP Inc. (the "owner") for consent to grant a lease over part of the subject lands for a period of more than 21 years. The subject lands consist of the "Fairgrounds Shopping Centre" property located north of Fifth Avenue and west of Highway 10. The purpose of this application is to permit an existing lease agreement to be extended between the owner and The TIMWEN Partnership & Wendy's Restaurants of Canada Inc. (the "Tenant"). This lease agreement applies to the portion of the subject property occupied by the existing building and associated parking areas for the Wendy's and Tim Horton's restaurants at 100 Fifth Avenue. Approval of this consent application would allow this existing lease agreement to be extended, thereby allowing the Tenants to remain in their current location.

### 2. Background

Section 50 of the Planning Act outlines the provisions that regulate the division or transfer of land in Ontario. Section 50(3) of the Act states that "no person shall ... enter

into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more unless, (f) a consent is given to...enter into an agreement in respect of the land". An application for consent is therefore required to permit a lease agreement over a property or a portion of a property where the duration of the agreement is for 21 years or more. Long-term leases enable an owner to retain ownership rights of their lands while permitting a tenant to formalize certain rights and benefits under the lease, such as a secured length of tenancy, assured rights of access and use, etc. In this situation, the existing Tenant (i.e. Tim Hortons and Wendy's restaurants) is seeking to renew their current lease agreement with the property owner, which would exceed a period of 21 years. The proposed lease boundary area is to remain as-is and is shown on Attachment 2. The lease area includes the existing freestanding building, surrounding drive-through and parking areas.

### **3. Staff Comment**

#### **3.1 Provincial Policy Statement (PPS)(2020)**

PPS policies pertaining to development within Settlement Areas promote land use patterns that are based on a mix of land uses and densities which support the efficient use of resources; are appropriate for the efficient use of infrastructure and public service facilities; minimize impacts to air quality and climate change; support active transportation; and are transit-supportive.

The subject consent application intends to permit an existing lease arrangement to continue, which would maintain existing permitted land uses operating on the subject lands. No new uses or site alteration would result from this application and no further planning approvals are required to facilitate this arrangement. The proposed consent is consistent with the policies of the PPS (2020).

#### **3.2 Town of Orangeville Official Plan**

The subject property is designated "General Commercial" on Schedule 'A' (Land Use Plan) in the Town's Official Plan (OP). This designation applies to the major non-downtown commercial area located in the Highway 10 corridor north of Fourth Avenue. It accommodates retail and wholesale outlets as a primary function, as well as personal and business services, such as banks, restaurants and office uses. A Special Policy (E8.25) also applies to the subject property, which directs specific floor area restrictions to be established in the Zoning By-law for certain permitted uses.

This application for consent intends to permit an extension of a current lease arrangement to allow existing restaurant uses to continue to operate as-is at this location. The uses are permitted by the General Commercial policies of the OP and their continued function maintains conformity with the OP. This consent application conforms to the Town's OP.

### **3.3 Zoning By-law 22-90, as amended**

The subject property is zoned General Commercial (C1) Zone, with Special Provision 24.83 on Schedule 'A' (Map No's A5 and B5) of Zoning By-law No. 22-90. The C1 zone permits a range of uses consistent with the General Commercial policies of the OP, including a retail store, business office, personal service shop, restaurant, financial establishment, cinema, and recreational establishment. Special Provision 24.83 permits additional uses specific to this property and also specifically prohibits certain uses that would otherwise be permitted by the parent C1 Zone. The special provision also contains a number of specific limitations for floor areas of certain uses and stipulations on the number of units that may be occupied for some of the permitted uses.

The existing restaurant uses at 100 Fifth Avenue, which are the subject of this consent application for a lease agreement, are permitted by the C1 zone and comply with Special Provision 24.83. No new development or land use change would be facilitated by this consent application. This consent application therefore complies with the Zoning By-law.

### **4. Cash-in-lieu of Parkland**

This application does not involve new lot creation. Therefore, parkland dedication (or payment in lieu thereof), pursuant to By-law No. 47-2012 and the provisions of the Planning Act, does not apply to this application.

### **5. Recommendations**

Planning Division staff recommends that the **Consent Application (File No. B-02/21)** for a consent to lease a parcel of land known municipally as 100 Fifth Avenue, be **approved**.

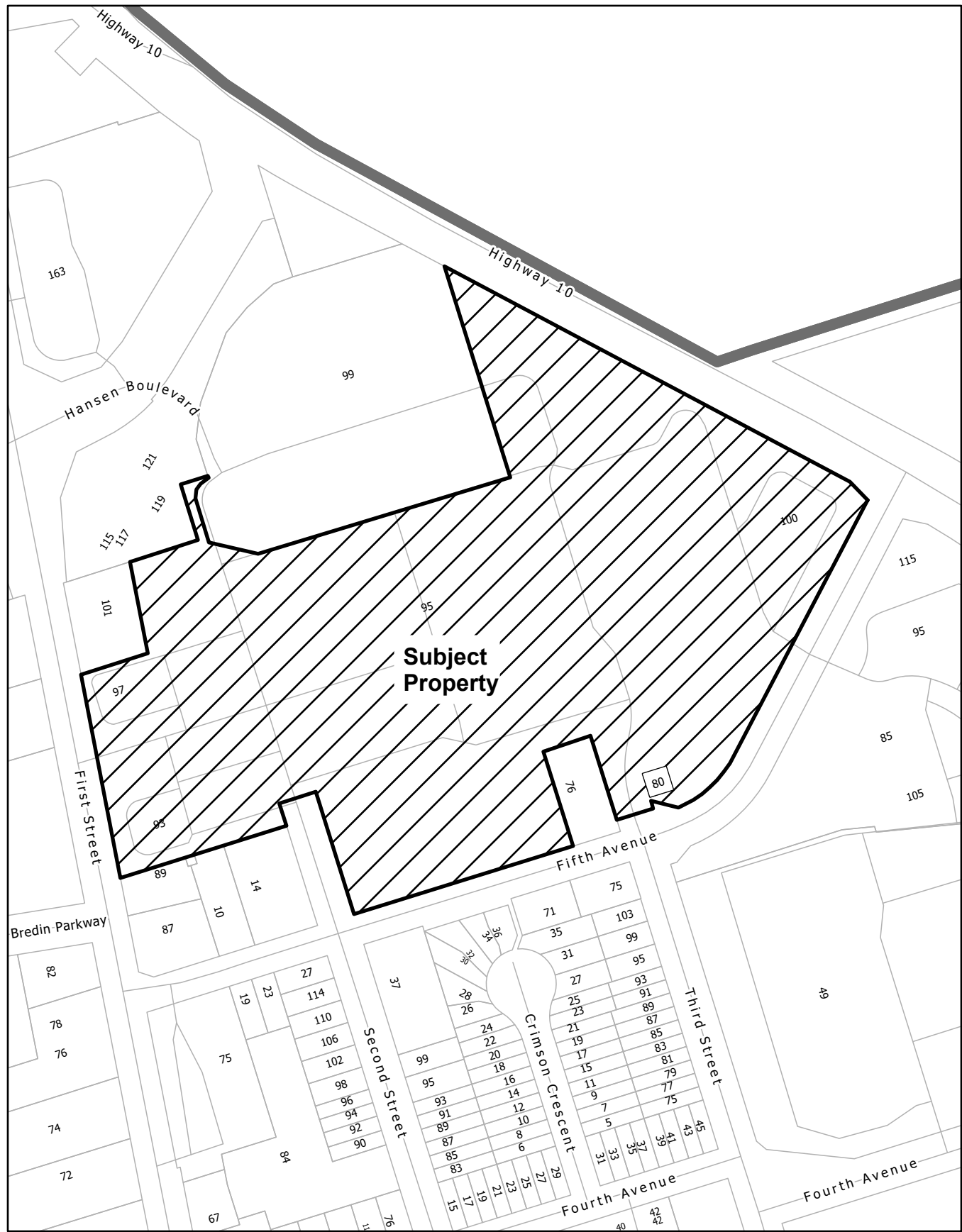
Respectfully submitted:



Brandon Ward, MCIP, RPP  
Manager of Planning, Infrastructure Services

Attachments:

1. Location Map.
2. Existing Lease Boundary



FINISHED FLOOR ELEVATION 416.5m

Leased Boundary

FUTURE DEVELOPMENT

Tim Hortons

EXISTING BUILDING

Wendy's

EX. MENU, SPEAKER AND PREVIEW MENU TO BE REMOVED

PROPOSED INTEGRATED MENU/SPEAKER

PROPOSED PREVIEW MENU

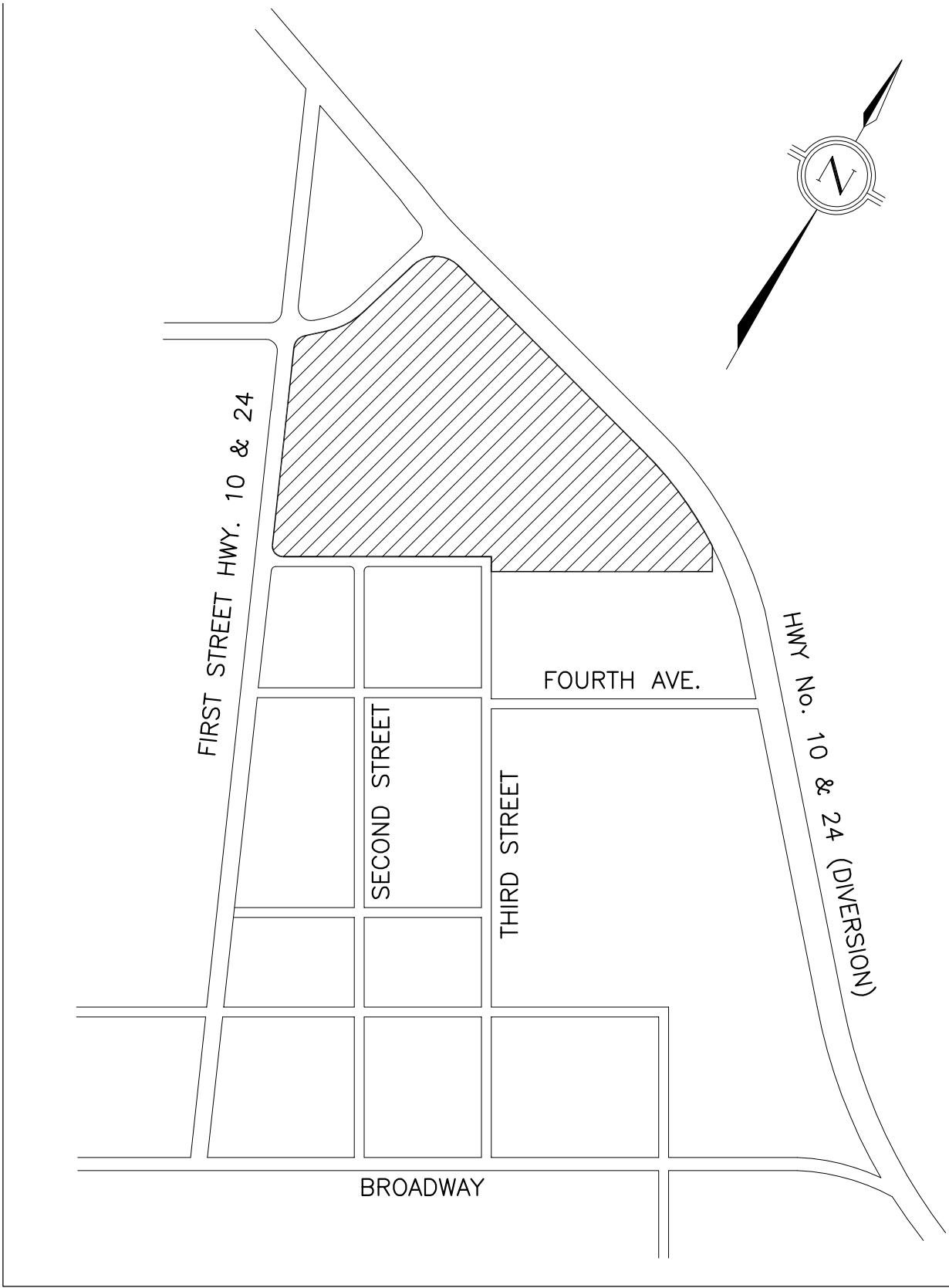
PROPOSED BARRIER-FREE SIGNS AS PER DETAIL

PERIMETER OF EXISTING BARRIER-FREE RAMP TO BE PAINTED YELLOW AS PER TDL SPECIFICATIONS AND DIRECTION OF TDL PROJECT MANAGER.

COMBO PYLON

HIGHWAY NO. 10 AND NO. 24

EXISTING SIGNALIZED INTERSECTION



APPLICATION FOR CONSENT OF A LONG TERM LEASE.  
NO CONSTRUCTION PROPOSED.  
FOR ILLUSTRATION PURPOSE ONLY.



THE TDL GROUP CORPORATION

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PROJECT  
ORANGEVILLE, ONTARIO

100 FIFTH AVENUE

RESTAURANT No. 1883

DRAWING TITLE:  
SITE PLAN

DRAWN BY: MM

SCALE: 1:250

DRAWING NO.

SP