COMMITTEE OF ADJUSTMENT
TOWNSHIP OF WAINFLEET

"Wainfleet - find your country side!"

FILE NO: B06/2021W

NOTICE OF DECISION

In the matter of the Planning Act; Revised Statutes of Ontario, 1990, Chapter P. 13 and;
In the matter of an application for consent on behalf of:

IBI Group o/b/o Hugh (John) MacLellan

50667 Green Road South
Concession 5, Part Lot 5 RP59R4929 Part Pt 1, Wainfleet

Type of Transaction for which application for consent is being made:

☒ Conveyance ☐ Mortgage or Charge ☐ Partial Discharge of Mortgage ☐ Other

Subject of the application:

The subject property is located on the east side of Green Road South, south of Lambert Road and west of Phillips Road and is known municipally as 50667 Green Road South.

Application is made for the consent to:

- Sever Part 3 (1.09 ha) for future residential use;
- Retain Part 4 (13.96 ha) for continued residential use

DECISION: ☒GRANTED ☐REFUSED

The above decision is subject to the following conditions:

PLEASE SEE SCHEDULE "A" ATTACHED HERETO FOR CONDITIONS AND REASONS

Chair M. Feduck

Member L. Bjerno

Member G. Balicki

Member R. Cross

Member S. McMillan

Date of Decision: February 17, 2021 **Date of Mailing: February 18, 2021**

I hereby certify this to be a true copy of the decision of the Committee of Adjustment for the Township of Wainfleet in the Regional Municipality of Niagara and this decision was concurred in by the majority of the members who heard the application.

Erin Shacklette, Secretary-Treasurer

Last date of filing an appeal to the Local Planning Appeal Tribunal under Section 53 of the Planning Act: **March 10th, 2020**

PROCEDURE FOR APPEAL

The Planning Act, R.S.O. 1990, Section 53, Subsection 19, as amended states: - "Any person or public body may, not later than **twenty (20) days after the giving of notice** under subsection (17) is completed, appeal the decision or any condition imposed by the council or the Minister or appeal both the decision and any condition to the Tribunal by filing with the clerk of the municipality or the Minister a notice of appeal setting out the reasons for the appeal, accompanied by the fee prescribed under the Local Planning Appeal Tribunal Act, 2017". The prescribed fee is $400 and payable to the Minister of Finance.

Pursuant to Rule 7 of the LPAT Rules, anyone who wishes to participate in an LPAT appeal hearing as a participant shall file a written participant statement that sets out their position on the matter and issues of the proceeding, together with an explanation of their reasons in support of their position. A participant may only make submissions to the Tribunal in writing.

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SCHEDULE A – FILE B06/2021W

This is Schedule A, appended to and forming part of the Notice of Decision for Application for Consent B06/2021W.

Application is made for the consent to:

- Sever Part 3 (1.09ha) for future residential use;
- Retain Part 4 (13.96 ha) for continued residential use

DECISION: ☒GRANTED ☐REFUSED

The above decision is subject to the following conditions:

1. That the owner enter into a development agreement with the Township of Wainfleet, to be registered against the title of Parts 1, 2 and 3, to require:

    a. That the owner agrees to implement the recommendations of the Noise Feasibility Study, prepared by HGC Engineering Limited (dated December 18, 2020), including the provision of central air conditioning in all future dwellings, upgraded glazing on the north façade of the future dwelling on Part 1 and warning clauses.

    b. That any offers and agreements of purchase of sale or lease shall include the following warning clauses:

        i. *"Purchasers/tenants are advised that, despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing rail traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the noise criteria of the Municipality and the Ministry of the Environment, Conservation and Parks."*

        ii. *"This dwelling unit has been designed with the provision for adding central air conditioning. Installation of central air conditioning will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the Municipality's and the Ministry of the Environment, Conservation and Parks noise criteria. (Note: The location and installation of the outdoor air conditioning device should be done so as to minimize the noise impacts and comply with the criteria of MECP publication NPC-300.)"*

2. That the Drainage Superintendent be satisfied that the consents are appropriately captured under the Drainage Act through a Section 65 apportionment agreement or through Section 76/78.

3. That the Secretary-Treasurer be provided with a registerable legal description of the subject parcel, together with a copy of the deposited reference plan, for use in the issuance of the Certificate of Consent.

4. That a final certification fee, payable to the Treasurer of the Township of Wainfleet, be submitted to the Secretary-Treasurer.

5. That all conditions of consent be fulfilled within a period of one year after notice has been given under section 53(17) or 53(24), as per Section 53(41) of Planning Act, R.S.O. 1990.

COMMITTEE OF ADJUSTMENT
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SCHEDULE A – FILE B06/2021W

This is Schedule A, appended to and forming part of the Notice of Decision for Application for Consent B06/2021W.

Reasons:

1. The proposed consent is consistent with the Provincial Policy Statement, the Regional Policy Plan and the Township Official Plan.
2. This decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O. 1990, as amended.
3. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Township Official Plan.

Date of Decision: February 17, 2021 **Date of Mailing: February 18 2021**

I hereby certify this to be a true copy of the decision of the Committee of Adjustment for the Township of Wainfleet in the Regional Municipality of Niagara and this decision was concurred in by the majority of the members who heard the application.

All conditions of Consent must be fulfilled by: February 17, 2022

Erin Shacklette, Secretary-Treasurer