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Date **July 6, 2022** **Report No. 2022-487**

To Chair and Members
 City of Brantford Committee of Adjustment

From Blaine Yatabe, MCIP, RPP
 Senior Development Planner

1.0 Type of Report

Committee of Adjustment Decision Regarding Applications for Consent and Minor Variance

2.0 Topic

APPLICATION NO.	B18/2022 and A20/2022
APPLICANT/OWNER	Multani Custom Homes
LOCATION	73 Murray Street

3.0 Recommendation

- A. THAT Application B18 2022 to create an easement for access to a parking space over Part 3 on Plan 2R-7864 in favour of Part 4 in Plan 2R-7864, BE APPROVED, subject to the conditions attached as **Appendix A** to Report 2022-487;
- B. THAT the reason(s) for approval are as follows: having regard for the matter under Section 51(24) of the *Planning Act*, Staff is satisfied that the proposed consent application is desirable and compatible with the surrounding area and will not result in adverse impacts on the surrounding properties. The application is in conformity with the general intent of the policies of the Official Plan, specifically Section 9.3(d) regarding the creation of easements within the City of Brantford and is consistent with

the policies of the Growth Plan for the Greater Golden Horseshoe and the Provincial Policy Statement;

- C. THAT Application A20/2022 requesting relief from Section 6.18.7.8 of the City Of Brantford Zoning By-law 160-90 to permit 5 parking spaces for a proposed fourplex, whereas 6 spaces are required, BE APPROVED;
- D. THAT the reason(s) for approval are as follows: the proposed variance is in keeping with the general intent of the Official Plan and Zoning By-law, the relief requested is considered minor in nature and is desirable for the appropriate development and use of the subject lands; and,
- E. THAT pursuant to Section 53(17) – (18.2) and Section 45(8) – (8.2) of the Planning Act, R.S.O 1990, c.P.13, the following statement SHALL BE INCLUDED in the Notice of Decision:

“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report No. 2022-487”

4.0 Purpose and Description of Applications

Consent and minor variance applications have been received for the lands municipally addressed as 73 Murray Avenue. A location map and an easement plan are attached as **Appendices B and C**. The applicant is proposing to create an easement in favour of 2479449 Ontario Inc, known as Bhaskar Lands, for proposed Building “C” as shown on drawing number 10565-SITE by J.H. Cohoon Engineering Ltd dated November 23, 2021 for access over the existing easement into a single space in the parking lot used by 73 Murray Avenue to compensate for the reduction of parking space in the proposed parking lot. The proposed lot dimensions are as follows:

	<i>Easement</i>	<i>Parking space</i>
<i>Lot Width</i>	<i>6.25m</i>	<i>2.75m</i>
<i>Lot Depth</i>	<i>24.8</i>	<i>5.60m</i>
<i>Lot Area</i>	<i>150.5 m²</i>	<i>15.4m²</i>

5.0 Site Features

The subject lands are located on the east side of Murray Street, and the existing parking lot is between Mary and Sarah Street, with access off of Murray and Mary Street. The parking lot is used by the residences of 73 Murray Street, and

there is a variety store on site. There is also a proposed laundromat on site that is not open. The parking calculations meet the required number of spaces for the residences, retail store and the laundromat. In the immediate surroundings there are single dwellings, converted dwellings and an additional area of parking that is proposed to be infilled with a five unit dwelling to the east of 73 Murray Street, the site of proposed Building “C”, which is currently an expanse of asphalted parking. An aerial photo and site photographs of the subject lands are attached as **Appendices D** and **E**.

6.0 Input from Other Sources

6.1 Technical Comments

The application was circulated to all applicable departments and agencies. No adverse comments were received. Detailed comments from the Building and Engineering Departments are attached as **Appendices F** and **G**.

6.2 Public Response

Notice of public hearing was issued by personal mail (72 notices) and by positing 2 public notice sign on-site. A map of the area of notification is included as **Appendix I**. At the time of writing the Report, no phone calls or comments were received.

6.3 Grand River Notification

Notice of the consent application was issued to representatives of the Six Nations of the Grand River and the Mississaugas of the Credit First Nation, with no response received to date.

7.0 Planning Staff Comments and Conclusion

7.1 Provincial Policy Context

Applications B21/2021 & A35/2021 were reviewed in the context of Provincial Policy, including the Provincial Policy Statement (2020) (PPS) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) (August 2020). These policies set the standard to which provincial and local interests, policies and goals are implemented. The PPS outlines that Ontario’s long term prosperity, environmental health and social well-being depends on wisely managing change and promoting

efficient land use and development patterns. The Growth Plan outlines the principals that provide the basis for guiding decisions in the Greater Golden Horseshoe on how land is developed, resources are managed and protected, and public dollars are invested. Planning Staff is of the opinion that the proposed consent and minor variance applications are consistent with the direction set out in the PPS and conform to the Growth Plan.

7.2 City of Brantford Official Plan (Envisioning Our City: 2051)

Official Plan Section 18.9.1 states that *“consents may be permitted for reasons of the creation of a new lot, boundary adjustments, rights-of-way, easements, and to convey additional lands to an abutting lot, provided an undersized lot is not created”*. The proposed easement will formally recognize the location of the existing parking space and the easement through the existing parking lot at 73 Murray Street to access a single parking space.

The subject lands are designated “Residential” on Schedule 3 of the City of Brantford’s the Official Plan (see **Appendix J**). The “Residential” designation permits a full range of residential dwelling types, including fourplexes, as well as supporting land uses intended to serve local residents. The subject application will then conform to the policies set out in the Official Plan.

7.3 City of Brantford Zoning By-law 160-90

The subject lands are zoned “Residential Medium Density Type A Zone (R4A-51)” for the proposed Building “C” in Zoning By-law 160-90 (see **Appendix B**). The R4A Zone permits fourplexes, which is what proposed Building “C” is intended to be. Under Section 6.18.7.8 Table 6.1 requires 1.5 parking space per unit. The subject application requires relief for the number of required parking spaces lot area for the proposed fourplex to 5 spaces, which is discussed further in Section 7.4.2 of this Report. The proposed fourplex lots comply with all other requirements of Zoning By-law 160-90.

7.4 Planning Analysis

7.4.1 Consent

The *Planning Act* sets the standard to which provincial and local interests, policies and goals are implemented. Section 51 (24) of

the *Planning Act* lists the criteria that the Committee of Adjustment must have regard for when considering a consent application for approval. These criteria include: if the plan conforms to the Official Plan, the dimensions and shapes of the proposed lot, and the adequacy of utilities and municipal services. Section 9.3 of the Official Plan also outlines criteria for the subdivision of land and stipulates when consents are appropriate which includes when a Plan of Subdivision is deemed unnecessary and where the application conforms to the policies of the Official Plan, no more than three new lots are being created and all lots have frontage on a municipal road and do not require that municipal services be extended, and for the creation easements, boundary adjustments, rights-of-way, lot additions and long-term leases.

This consent application is for the purpose of creating an easement agreement so that it becomes permanent and favours the Bhaskar lands by allowing access over an existing easement to an existing parking space on an abutting lot. To facilitate this, an easement agreement entered and signed by the property owners of 73 Murray Street, the proposed fourplex lot and the City of Brantford needs to be procured. If approved as per the agreement, unrestricted and continued access for 21 years less one day will be given to the abutting parking lot shown as yellow in the Schedule A of the attached Parking Lot Agreement and Easement (see **Appendix K**). The subject properties are located on part PLAN 2, LOTS 6 TO 10 S (the existing parking lot and associated building), and PLAN 2 LOTS 6 TO 8 PT LOTS 9, (the proposed fourplex and parking lot). This was also a condition in R4A-51 Site Specific Rezoning and part of it is attached as **Appendix L** showing the conditions as highlighted.

7.5 Minor Variance

The Minor Variance application is to request relief from Section 6.18.7.8 Table 6.1 of the Zoning By-law 160-90. The Bylaw requires 1.5 parking spaces per unit in a fourplex dwelling, therefore requiring a total of six parking spaces. The current number of parking spaces in the proposed parking lot for the proposed fourplex is four. By having an easement agreement for the abutting parking lot, the applicant will have five spaces.

The applicant is requesting relief from the required six spaces to five spaces.

The minor variance meets the general intent and purpose of Zoning By-law 160-90 and the Official Plan by resulting in an easement that grants passage over an existing lot to an existing parking space in the adjacent parcel. No physical modifications are proposed to the parking lot, and the proposed fourplex will be infill which is supported by Section 5.2.1(a) in the Official Plan for residentially designated lands.

7.6 Conclusion

A site inspection was completed on June 13, 2022. Upon completion of this visit and review of all relevant policies, Planning Staff are supportive of the applications. Having regard for the matters under Section 51 (24) of the *Planning Act*, Staff is satisfied that the consent application is desirable and compatible with the surrounding area. The proposal will contribute to both economic and residential development on an underutilized lot in Brantford and in accordance with the applicable planning policy framework in the PPS, Growth Plan, and Official Plan. The application is also consistent with the consent policies of Section 9.3 of the Official Plan.

Ontario is experiencing a housing crisis and the Province's newly formed Housing Affordability Task Force released a report in January 2022 which identified intensification within existing built-up areas of municipalities as one of the most important residential housing priorities. The creation of this fourplex infill aligns with this direction. The fourplex is subject to Site Plan Control which will provide the City and Ward Councillors with an opportunity to review the functionality of the site, placement of the building(s), driveway location and overall design of the new dwelling to ensure its compatibility and integration within the neighbourhood. All other technical requirements of the City will be addressed at the Site Plan Control stage. Planning Staff are of the opinion that the proposed minor variance meets the four tests of Section 45(1) of the *Planning Act*.

It is Planning Staff's opinion that the variance satisfies the four tests as defined under the *Planning Act*. The application is minor in nature, appropriate for the development and use of the lands, and meets the intent of the Zoning By-law and Official Plan. Planning Staff recommend that applications B18/2022 and A20/2022 be approved subject to the conditions attached as **Appendix A** to Report 2022-487.



Prepared by: Blaine Yatabe RPP, MCIP
Senior Development Planner
Prepared on: June 30, 2022



Reviewed By:
Joe Muto RPP, MCIP
Manager of Development Planning

Appendix A - Conditions of Consent – B18/2022

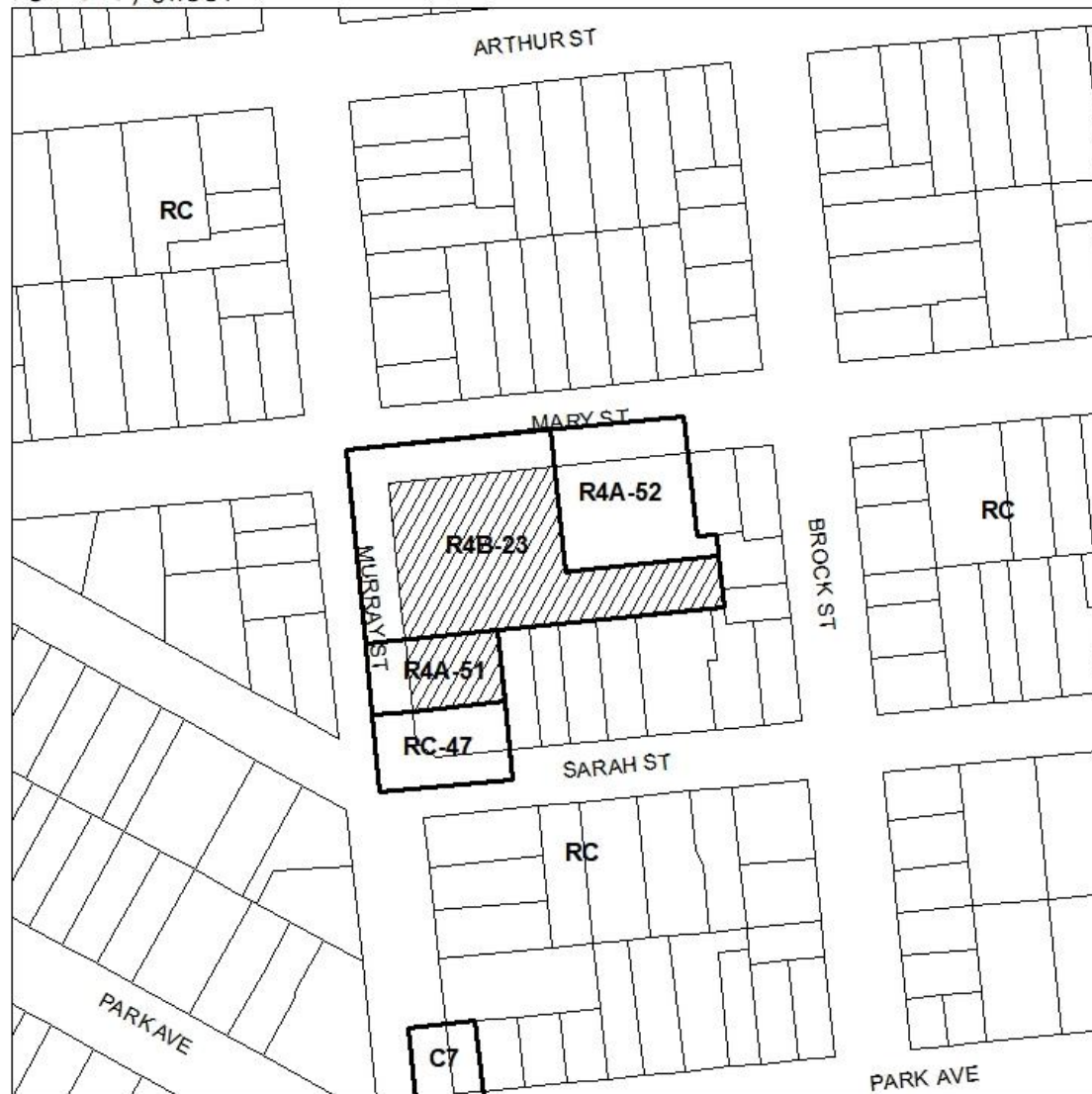
Subject to the following conditions:

1. ☒ Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that the deposited reference plan showing the severed and retained parcels of land has been received.
2. ☒ Receipt of a registered reference plan showing the severed and retained parcel;
3. ☒ Receipt of payment to the City for cash-in-lieu of the 5% contribution of land for public purposes;
4. ☒ Receipt of confirmation that all taxes are paid up to date;
5. ☒ That a Letter of Undertaking is provided from the applicant's solicitor ensuring that the easement will be registered on title for the properties;
6. ☒ Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that a Wastewater Allocation Request Form has been submitted and approved.
7. ☒ Receipt of confirmation that the lands to be retained continue to maintain access rights through access easements registered on this severed parcels, to the satisfaction of the Manager of Development Engineering.
8. ☒ Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that a Municipal Numbering Assignment Request Form to assign a municipal address number to the severed and/or retained parcel(s) has been submitted.
9. ☒ Receipt of updated Parking Agreement and Easement with signatories from the City of Brantford and property owners, to the satisfaction of Chief Planner and Director of Development Services and the City Solicitor.
10. ☒ That the above conditions be fulfilled and the Certificate of Consent be issued on or before July 6, 2024, after which time the consent will lapse.



Appendix B – Location Map

ZONING

Application: B18/2022 & A20/2022
73 Murray Street



Legend

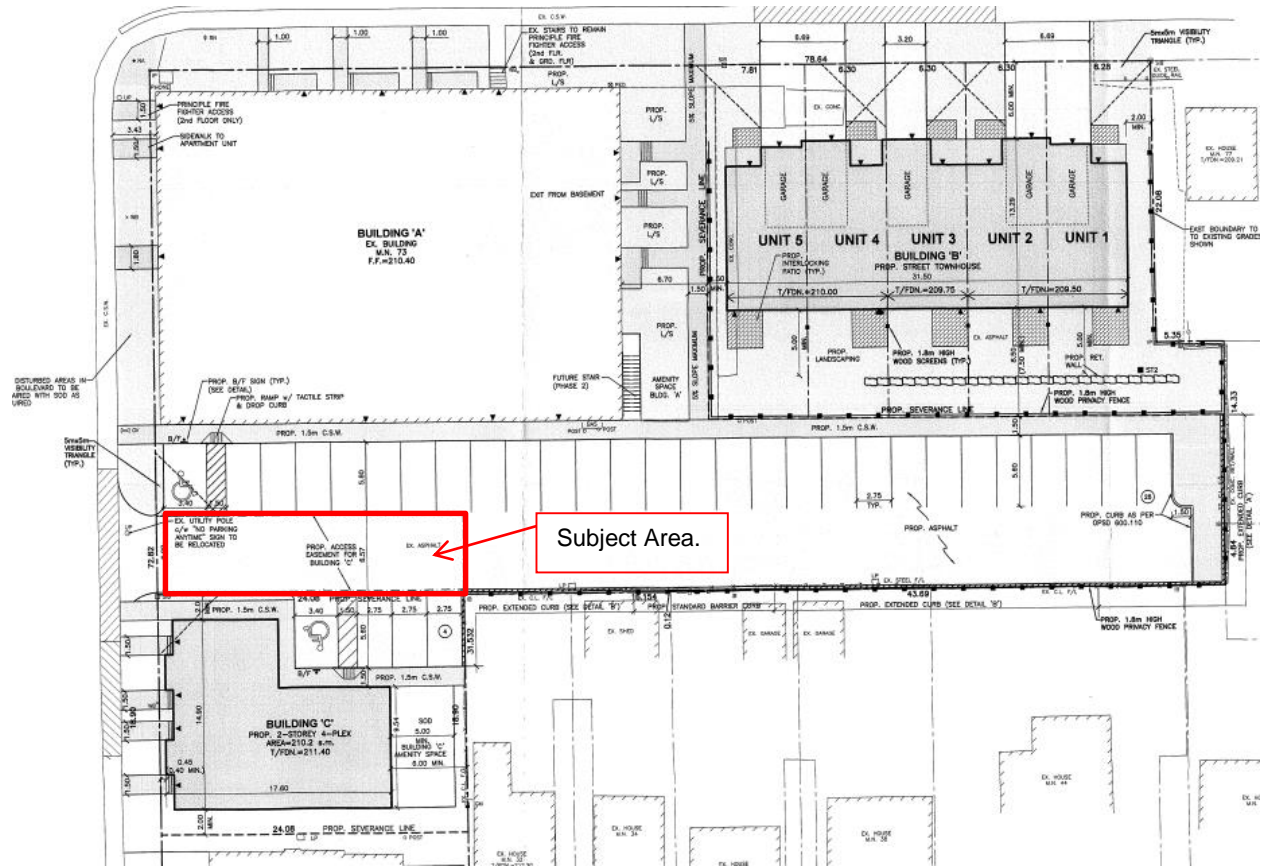
-  Subject Land
-  Zone Boundary



ZONING (Bylaw 160-90) and County of Brant(61-16)

- RC Residential Conversion
- R4A Residential Medium Density Type A
- R4B Residential Medium Density Type B
- C7 Convenience Commercial
- # Exception Number

Appendix C – Survey Sketch




Appendix D – Aerial Photo

AERIAL PHOTO

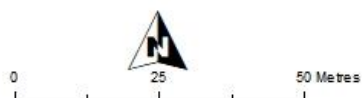
Application: B18/2022 & A20/2022
73 Murray Street



Legend

 Subject Land

Aerial Photo from spring 2021



Appendix E – Site Photos



Photo 1: Looking north from existing parking lot.



Photo 2: Location of parking spot.



Photo 3: Site of proposed fourplex relation to existing parking lot showing access from Murray Street.

Appendix F – Building Department Comments



BUILDING DEPARTMENT

PRELIMINARY REPORT TO PLANNING

<input type="checkbox"/> MINOR VARIANCE	<input type="checkbox"/> SEVERANCE
<input type="checkbox"/> DRAFT PLAN OF SUBDIVISION	<input type="checkbox"/> ZONING BYLAW AMENDMENT
<input type="checkbox"/> OFFICIAL PLAN AMENDMENT	<input type="checkbox"/> DRAFT PLAN OF CONDOMINIUM
<input type="checkbox"/> RENTAL HOUSING PROTECTION ACT	<input checked="" type="checkbox"/> SITE PLAN CONTROL APPROVAL

APPLICATION / SUBMISSION N^o SPC-10-2019

SITE: **61-73 Murray St.**

APPLICANT:

COMMENTS:

BYLAW: 160-90 ZONE: R4A-51, R4A-52

- The proposed use for Building C is identified as a Fourplex by the applicant. The use must be in accordance with the Fourplex use definition in the zoning bylaw 160-90. Please provide a floorplan to verify the use.
- Building C – 6 parking spaces are required, 4 provided.
- Any proposed construction will require that a building permit be applied for and approved through this department. Development charges may be applicable to any new development.

Appendix G – Engineering Department Comments

Transportation - No objections comments.

Development and Engineering comments:

Location: 73 Murray Street
App. #: B18/2022 & A20/2022
Date: June, 2022
Reviewer: Emily Tunncliffe on behalf of Tyler Wright

Committee of Adjustment

Development Engineering Severance & Minor Variance Application Comments

Conditions

- Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that the deposited reference plan showing the severed and retained parcels of land has been received.
- Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that a Wastewater Allocation Request Form has been submitted and approved.
- Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that a Municipal Numbering Assignment Request Form to assign a municipal address number to the severed and/or retained parcel(s) has been submitted.
- Receipt of confirmation that the lands to be retained continue to maintain access rights though access easements registered on this severed parcels, to the satisfaction of the Manager of Development Engineering.

General Information

- A Site Alteration Permit will be required for any changes/modifications made to the site as defined by the Site Alteration By-Law 28-2011. This Permit is administered by the Cities Development Engineering Department.
- A Right of Way Activity Permit will be required for any access/driveway activity, any proposed excavation activity within the Right of Way and any occupancy activity within the Right of Way. This Permit is administered by the Cities Operational Services Department.
- A Sanitary Lateral Connection Permit will be required for any proposed sanitary service connections. This Permit is administered by the Cities Development Engineering Department.
- A Water Connection Permit will be required for any proposed water service connections. This Permit is administered by the Cities Environmental Services Department.

Appendix H– Environmental Services Department Comments

No objections or comments



June 13, 2022

Environmental Services

Attention: Blaine Yatabe, Development Planner

RE: A20-2022 & B18-2022 – 73 Murray Street – Minor Variance & Consent Application

I reviewed the Minor Variance application, and associated documents — as prepared by JH Cohoon Ltd — on behalf of Environmental Services, and have no objections.

Sincerely,

Ashley Dennis
Environmental Services Technologist
adennis@brantford.ca

Appendix I – Area of Notification

AREA OF PUBLIC NOTIFICATION

Application: B18/2022 & A20/2022
73 Murray Street



Legend

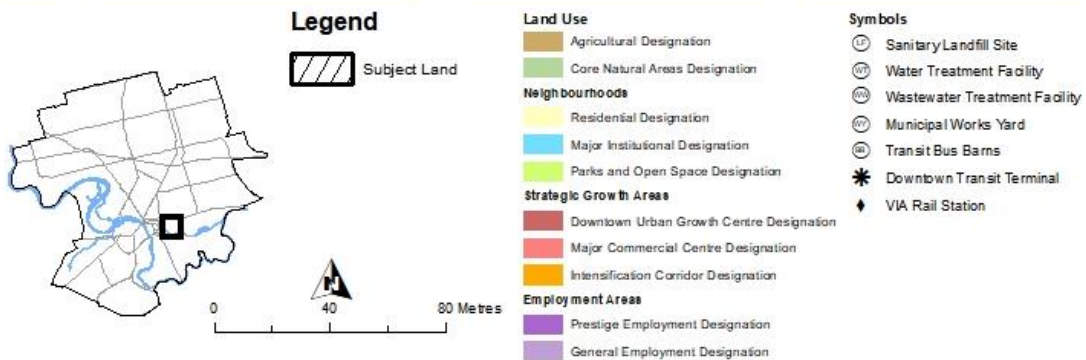
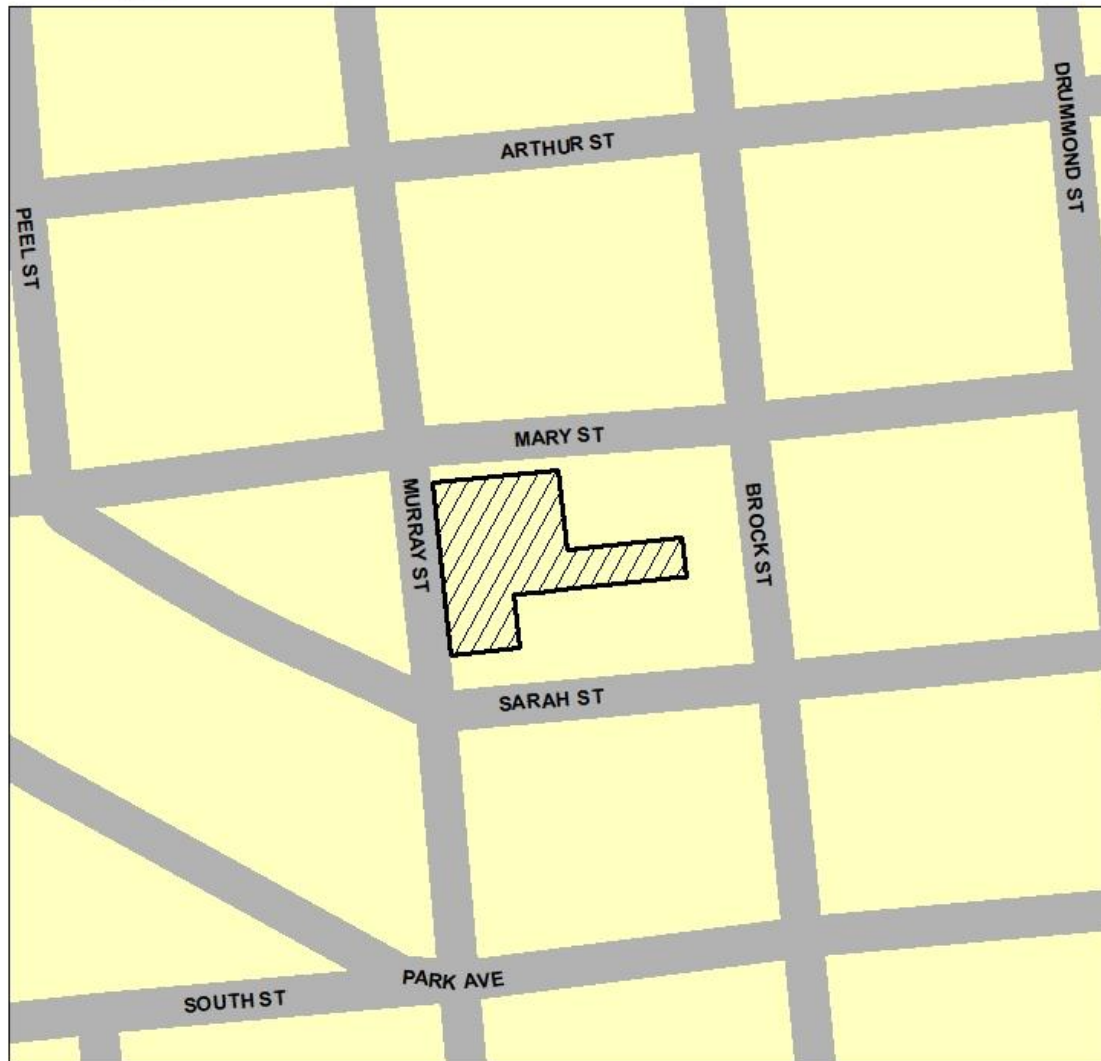
-  Subject Land
-  Notified Properties
-  60 m Buffer from Subject Land



Appendix J – Official Plan

OFFICIAL PLAN EXCERPT MAP

Application: B18/2022 & A20/2022
73 Murray Street



Appendix K- Parking Agreement and Easement

PARKING AGREEMENT AND EASEMENT

Dated this 15 day of March, 2022.

2479449 ONTARIO INC.
(of the first part hereinafter called "Landowner")

AND

2479449 ONTARIO INC. AND BHASKAR REDDY GUNTOORI
(of the second part hereinafter called "Bhaskar")

WHEREAS the Landowner is the owner of the lands and premises known as 73 Murray Street, Brantford, designated as PIN 32108-0264 (LT) (hereinafter referred to as the "Property");

AND WHEREAS Bhaskar is the registered owner of the lands known as 65 Murray Street, Brantford designated as PIN 320108-0263 (LT) (hereinafter referred to as the "Bhaskar Lands");

AND WHEREAS the Landowner has licensed Bhaskar a portion of the Property upon which one parking space may be located as shown outlined in red on Schedule A, attached hereto (the "Parking Space");

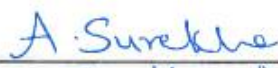
AND WHEREAS there is currently an access easement over the Property in favour of the Bhaskar Lands as outlined in yellow on Schedule A, attached hereto.


NOW THEREFORE in consideration of the foregoing and in consideration of the mutual covenants contained herein and in consideration of the sum of one dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, the parties hereto agree as follows:

1. The Landowner grants to Bhaskar an exclusive easement for 21 years less a day for the parking of motor vehicles upon the Parking Space. The Landowner covenants not to obstruct in any way the free passage of persons and vehicles over the Parking Space and not to do or suffer to be done anything which might damage or otherwise obstruct public vehicular and pedestrian access over the Parking Space as a result of the use or occupation herein permitted.
2. The easement and the rights granted herein shall pass with and extend and be annexed to, and run with and bind the Property and every part thereof and shall also bind the Landowner and the successors, assigns, legal representatives, lessees, sub-lessees and licenses of the Landowner, all successors in title to all or any portion of the Property, and any other persons, firms, corporations, or organizations having at any time any right of use, occupational possession of all or any portion of the Property. These presents and restrictions shall pass with, extend to, run with and benefit each and every part of the Bhaskar Lands and shall also extend and be enforceable by the owner of the Bhaskar Lands and its successors and assigns who have acquired an interest in any portion of the Bhaskar Lands so as to ensure to each and every successor and assign of the owner of the Bhaskar Lands.

3. Bhaskar and the Landowner agree that this agreement may be registered against the title to the Property.
4. Bhaskar or an agent of Bhaskar intends to apply to the City of Brantford for a consent to sever the easement so that such easement becomes a permanent easement in favour of the Bhaskar Lands. The Landowner and its successors on title agree to sign such documents and take such actions as may be necessary or desirable so that such severance can be completed, including without limitation the registration of a transfer of easement with consent of the City of Brantford. The Landowner further agrees that it will obtain a postponement of any mortgage to the transfer of easement
5. This instrument shall be read with such changes in number and gender required by the context.
6. This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

2479449 ONTARIO INC.


Name: Surekha Aedawalli
Title: Secretary


Name: Bhaskar Reddy Guntoori
Title: president
I/We have authority to bind the Corporation

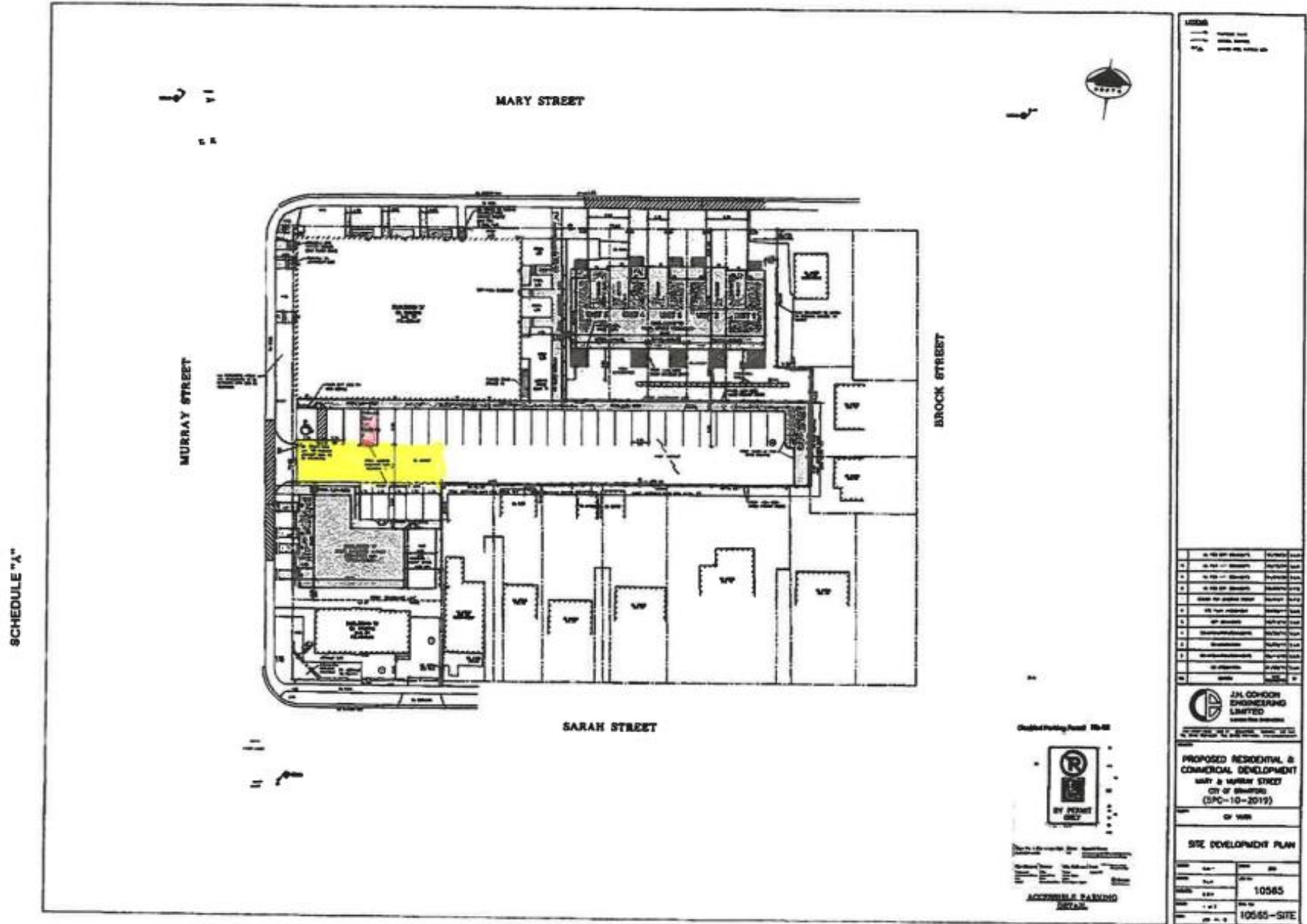
IN WITNESS hereof





Bhaskar Reddy Guntoori

Doc no. 4329912



LRO # 2 Notice

Received as BC425916 on 2022 03 15 at 15:00

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 4

Properties

PIN 32108 - 0264 LT
Description PT LTS 2, 3, 4, 5 & 6 N/S SARAH ST AND PT LTS 6, 7, 8, 9 & 10 S/S MARY ST PL CITY OF BRANTFORD, SEPTEMBER 7, 1892, BRANTFORD CITY, PTS 2 & 3 2R7864; SUBJECT TO AN EASEMENT OVER PT 3 2R7864 IN FAVOUR OF PT LTS 2 & 3 N/S SARAH ST PL CITY OF BRANTFORD, SEPTEMBER 7, 1892, BRANTFORD CITY, PT 4 2R7864 AS IN BC281085; CITY OF BRANTFORD
Address 73 MURRAY STREET
BRANTFORD

Consideration

Consideration \$0.00

Applicant(s)

The notice is based on or affects a valid and existing estate, right, interest or equity in land

Name 2479449 ONTARIO INC.
Address for Service 17 Dexshire Ave, Ajax, ON L1Z 0T8
A person or persons with authority to bind the corporation has/have consented to the registration of this document.
This document is not authorized under Power of Attorney by this party.

Statements

This notice is pursuant to Section 71 of the Land Titles Act.
This notice is for an indeterminate period
Schedule: See Schedules

Signed By

Brian Grant Finnigan	20 Wellington St Brantford N3T 5V6	acting for Applicant(s)	Signed	2022 03 15
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Tel 519-759-6220
Fax 519-759-8360

I have the authority to sign and register the document on behalf of the Applicant(s).

Submitted By

WATEROUS HOLDEN AMEY HITCHON LLP	20 Wellington St Brantford N3T 5V6	2022 03 15
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Tel 519-759-6220
Fax 519-759-8360

Fees/Taxes/Payment

Statutory Registration Fee	\$66.30
Total Paid	\$66.30

Appendix L – By-law 160-90 R4B-23 Zone

16-17

- | | | |
|----|---|---------------------|
| .4 | Setback for parking space from a lot line abutting a street (minimum) | 1 m |
| .5 | Lot Area (minimum) | 2340 m ² |
| .6 | Lot Coverage (maximum) | 41% |
| .7 | One off-street parking space may be permitted for the use associated with an abutting lot, on the condition that an agreement providing for the continuation of the off-street parking space is entered into with the owners of both lots and the City of Brantford and is registered against both parcels of land. | |
| .8 | An easement may be permitted for the access to all parking spaces on an abutting lot. | |
| .9 | Notwithstanding Section 2.4.9 of this By-law, Apartment Dwellings are permitted to have external entrances with direct access from the exterior of the building to a street. | |

That all the provisions of the R4B Zone in Section 7.10.2 to this Bylaw, and all other provisions of this Bylaw, as amended, that are consistent with the provisions herein contained, shall continue to apply mutatis mutandis.