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**Date** June 7, 2023 **Report No.** 2023-390

**To** Chair and Members  
City of Brantford Committee of Adjustment

**From** Nicole Goodbrand  
Senior Development Planner

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## 1.0 Type of Report

Committee of Adjustment Decision Regarding Applications for Consent

## 2.0 Topic

**Application No.** B18/2023, B19/2023 & B20/2023

**Owner/Applicant** Mark Bennett

**Agent** J. H. Cohoon Engineering Limited

**Location** 144 Mary Street

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## 3.0 Recommendation

- A. THAT Application B18/2023 to sever a parcel of land (identified as Lot 1 in the concept plan attached as Appendix A to Report 2023-390) from the western portion of the lands municipally addressed as 144 Mary Street having a lot area of 753.7 m<sup>2</sup>, and to retain a parcel of land having a lot area of approximately 2,044 m<sup>2</sup>, BE REFUSED;
- B. THAT the reason(s) for refusal of B18/2023 are as follows: Does not have regard for the matters under Section 51(24) of the *Planning Act*, in that it is not desirable or compatible with the surrounding area. The application is not in conformity with the general intent of the policies of the Official Plan and Zoning By-law, specifically Section 6.8 of the Official Plan respecting

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Undesirable Noise and Emissions as no land use compatibility study has been completed to identify appropriate parameters for further intensification and development on the lands; and

- C. THAT Application B19/2023 to sever a parcel of land (identified as Lot 2 in the concept plan attached as Appendix A to Report 2023-390) from the western portion of the lands municipally addressed as 144 Mary Street having a lot area of 754.2 m<sup>2</sup>, and to retain a parcel of land having a lot area of approximately 2,044 m<sup>2</sup>, BE REFUSED;
- D. THAT the reason(s) for refusal of B19/2023 are as follows: Does not have regard for the matters under Section 51(24) of the *Planning Act*, in that it is not desirable or compatible with the surrounding area. The application is not in conformity with the general intent of the policies of the Official Plan and Zoning By-law, specifically Section 6.8 of the Official Plan respecting Undesirable Noise and Emissions as no land use compatibility study has been completed to identify appropriate parameters for further intensification and development on the lands; and
- E. THAT Application B20/2023 to sever a parcel of land (identified as Lot 3 in the concept plan attached as Appendix A to Report 2023-390) from the southeastern portion of the lands municipally addressed as 144 Mary Street having a lot area of 698 m<sup>2</sup>, and to retain a parcel of land having a lot area of approximately 2,100 m<sup>2</sup>, BE REFUSED;
- F. THAT the reason(s) for refusal of B20/2023 are as follows: Does not have regard for the matters under Section 51(24) of the *Planning Act*, in that it is not desirable or compatible with the surrounding area. The application is not in conformity with the general intent of the policies of the Official Plan and Zoning By-law, specifically Section 6.8 of the Official Plan respecting Undesirable Noise and Emissions as no land use compatibility study has been completed to identify appropriate parameters for further intensification and development on the lands; and
- G. THAT pursuant to Section 53(17) – (18.2) 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. 2023-390.”*

## 4.0 Purpose and Description of Applications

Consent applications have been received for the lands municipally addressed as 144 Mary Street. The applicant is proposing to sever 3 new residential lots from the existing 2,798 m<sup>2</sup> lot. The existing commercial structure (bowling alley) is proposed to be demolished. The proposed severed lots are to be developed with one semi-detached dwelling unit, each containing two dwelling units. The proposed concept plan is shown below:

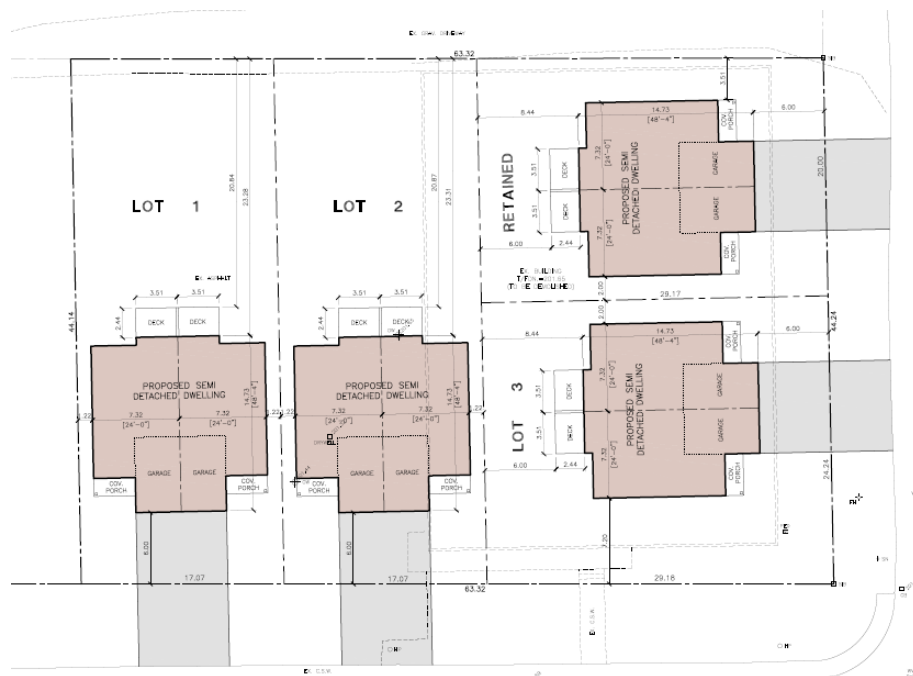


Figure 1 - Proposed Concept Plan

The proposed lot dimensions are detailed below:

Table 1 - Proposed lot statistics for retained and severed lot at 144 Mary Street

Lot Dimension	Severed Lot 1 (B18/ 2023)	Severed Lot 2 (B19/2023)	Severed Lot 3 (B20/2023)	Retained Lots
Lot Width	17.07 m	17.07 m	24.12 m	20.12 m
Lot Area	753.7 m2	754.2 m2	698.5 m2	591.5 m2

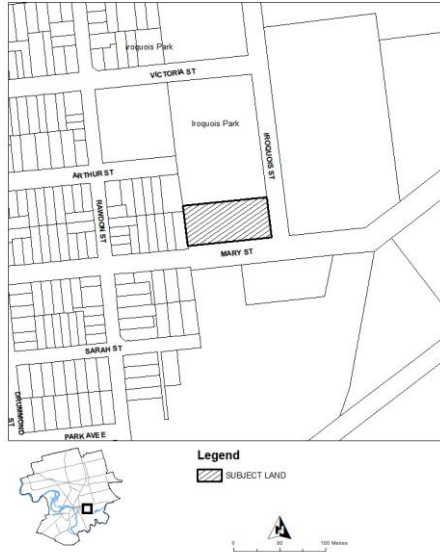
## 5.0 Site Features

The subject lands are located at the northwest corner of the intersection of Mary Street and Iroquois Street. The subject lands are generally rectangular in shape

and contains a vacant bowling alley which is proposed to be removed/demolished to facilitate the proposed development. The subject lands abut a public park (Iroquois Park) to the north and residential uses to the west. To the south and east of the property is industrial uses, including Sonoco (Paper Bag and Coated and Treated Paper Manufacturing, 33 Park Ave). An aerial photo, location map, and site photographs are included below.

**LOCATION MAP**

Application: B18/2023, B19/2023 & B20/2023  
144 Mary Street



**AERIAL PHOTO**

Application: B18/2023, B19/2023 & B20/2023  
144 Mary Street



Figure 2 - Location Map



Figure 4 - View of Subject Lands from Mary Street.

Figure 3 - Aerial Photo



Figure 5 - View from Subject Lands frontage along Iroquois Street.



Figure 6 - View from Subject Lands facing South towards the Sonoco property (33 Park Ave E).



Figure 7 - View from the Subject Lands facing east towards Pioneer Family Pools Distribution Center (50 Iroquois St.)



Figure 8 - View from Subject Lands facing South towards the Atlas Hydraulics Inc. property (147 Mary Street).

## 6.0 Input from Other Sources

### 6.1 Technical Comments

The application was circulated to all applicable departments and agencies. Development Engineering noted that they were not in support of B20/2023 (the Lot 3 Severance) as there is no sanitary sewer along Iroquois Street and will cause financial hardship to the City to service one lot. If lot 3 gets severed then the retained parcel does not have sanitary servicing. This is further explored in section 7.1.3 as it pertains to the City



of Brantford's Official Plan. A summary of the comments is provided below:

**Table 1 - Department and Agency Comments**

Agency Name	Agency Comment
<b>Building Department</b>	All Lots meet the area, width, coverage, setbacks, parking and landscape front yard for a semi-detached dwelling in an RC-1 zone.
	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.
<b>Environmental Services</b>	City Records indicate that the property is currently serviced by a 38 mm copper lateral serviced by a 150 mm asbestos cement watermain on Mary Street. The service appears to be located 1.5m right of left side of the building and the curb stop 4.3m out from the same;
	The Owner will be required to remove the existing water service and curb stop during demolition of the existing building. The service must be removed from the main to preserve water quality and prevent leaks and the curb stop removed to avoid confusion;
	The Owner will be required to submit a deposit for removal of the existing water service; the deposit will be based on the current Corporation approved rate. The Owner can apply to the City's Customer Service Department to have the deposit returned once the water service has been removed and inspected to the satisfaction of the City;
	Only one (1) water service will be permitted to each parcel. The Owner will be required to install one (1) new 25 mm water service, within the frontage of the severed parcels, from the 150 mm main in Mary Street and the 200 mm Asbestos Cement watermain on Iroquois Street.;
	Any section of Asbestos Cement watermain exposed during construction, including, but not limited to, all points where a service crosses or connects to that main, shall be replaced with Polyvinylchloride pipe. Any section of watermain placed on fill shall have joints restrained for the full width of the fill area. The proposed service removals and connections will require re-construction of the AC watermains; please indicate the extent of reconstruction on plan. Reconstruction should occur in a way that reduces the number of repair clamps (i.e. replacement of adjacent sections should be combined, where practical);

Agency Name	Agency Comment
	The Owner will be required to obtain a Right of Way Activity Permit prior to commencing any work within the City's road right-of-way;
	The Owner will be required to obtain a Water Service Connection Permit and pay all applicable fees prior to commencing any work to connect the new water service or replace the existing; the City will complete the inspection of all water service connections and meter installations;
	The City will complete inspection of all watermains and appurtenances associated with the development. The Owner will be required to pay the City's inspection time. The Owner will be required to pay a deposit for the inspections. The estimated deposit will be determined once the final design has been approved;
	The development must be metered during construction and the Owner will be required to pay the current fee per cubic metre for the quantity of water used;
	All materials and construction methods must comply with the latest version of the City's Linear Design & Construction Manual and Ontario Building Code.
	The developer or property owner is required to contact the Solid Waste Department to request the start of waste collection service upon occupancy
	For curbside recyclables collection by the City's curbside contractor, blue totes must be placed at curbside by 7:00 am on collection day by residents or on-site representative. In addition, materials set out at curbside must meet all requirements of Chapter 440 of the Municipal Code
	The developer or property owner is responsible for the management of all waste and recyclables materials during construction
<b>Development Engineering</b>	A Site Alteration Permit will be required for any changes/modifications made to the site as defined by the Site Alteration By-Law 29-2023. This Permit is administered by the City's 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 City's Operational Services Department.
	A Sanitary Lateral Connection Permit will be required for any proposed sanitary service connections. This Permit is administered by the City's Development Engineering Department.

Agency Name	Agency Comment
	A Water Connection Permit will be required for any proposed water service connections. This Permit is administered by the City's Environmental Services Department.
	Full public services are to be constructed, or replaced if damaged (sidewalk, boulevards, driveway approaches, noise barrier, etc.)
<b>Canada Post</b>	<p>Please be advised that Canada Post will put out Community mailboxes for mail delivery to these new 8 residential semi-detached units either on Iroquois St or Mary St and I will work with the developer and the City of Brantford on a site location.</p> <p>Please advise when construction starts and addressing and I will get the equipment built and installed.</p> <p>Connie Richardson Delivery Planning Officer Canada Post 519-521-0176 <a href="mailto:Connie.richardson@canadapost.ca">Connie.richardson@canadapost.ca</a></p>
<b>Landscaping</b>	No comments or concerns.
<b>County of Brant</b>	No comments or concerns.
<b>GRCA</b>	No comments or concerns.
<b>Hydro One</b>	No comments or concerns.

## 6.2 Public Response

Notice of public hearing was issued by personal mail (32 notices) and by posting a sign on-site. At the time of writing this Report, no comments have been received in regards to this consent application. A map of the area of notification is included below.



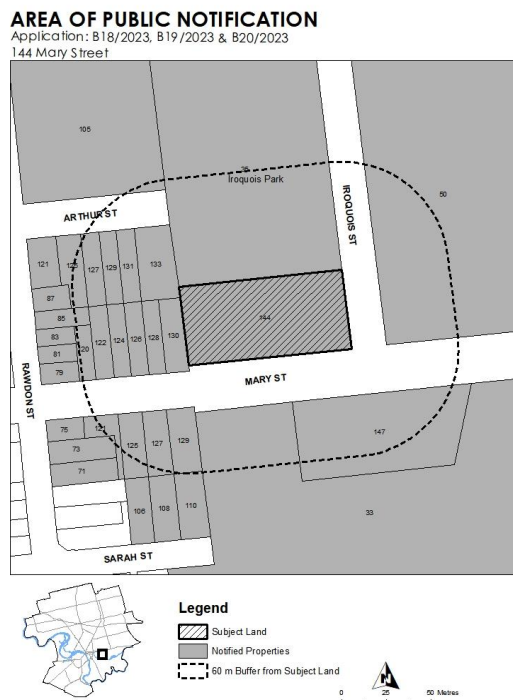


Figure 9. Area of Public Notification

## 7.0 Planning Staff Comments and Conclusion

### 7.1 Policy Context

This application was reviewed in the context of the Provincial Policy Statement, the Growth Plan, the Official Plan and the Zoning By-law. A summary of conformity to these policies is outlined below.

#### 7.1.1 Provincial Policy Statement (PPS) (2020)

The Provincial Policy Statement (PPS) 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 depend on wisely managing change and promoting efficient land use and development patterns.

Section 1.2.6 of the PPS focuses on Land Use Compatibility. It notes that major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour,

noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures. Major facilities are defined as *“facilities which may require separation from sensitive land uses, including but not limited to airports, manufacturing uses, transportation infrastructure and corridors, rail facilities, marine facilities, sewage treatment facilities, waste management systems, oil and gas pipelines, industries, energy generation facilities and transmission systems, and resource extraction activities.”* Sensitive Land Uses are defined as: *“buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive land uses may be a part of the natural or built environment. Examples may include, but are not limited to: residences, day care centres, and educational and health facilities.”* As noted previously, the subject lands abut and are in close proximity to multiple industrial uses, including a paper bag and coated and treated paper manufacturing plant (Sonoco) and a thermoplastics manufacturing plant (Ingenia Polymers). The PPS further notes that the long-term viability of existing or planned industrial, manufacturing or other uses that are vulnerable to encroachment by sensitive land uses shall be protected by requiring demonstration of the following:

- a) there is an identified need for the proposed use;
- b) alternative locations for the proposed use have been evaluated and there are no reasonable alternative locations;
- c) adverse effects to the proposed sensitive land use are minimized and mitigated; and
- d) potential impacts to industrial, manufacturing or other uses are minimized and mitigated.

While there is a well-established need for housing within the City and the province as a whole, the compatibility of the proposed residential intensification of the site cannot be fully understood due to the absence of any land use compatibility study, as

outlined in the Provincial Guideline D6: Compatibility Between Industrial Facilities and the associated D-1-1 Land Use Compatibility: Procedure for Implementation. No evidence of alternative locations has been identified, nor have potential adverse effects been analyzed. Staff previously identified the need for a land use compatibility study to evaluate the application to the applicant on multiple occasions, however, no report meeting the City's standards was provided. Given the absence of the appropriate studies, staff are unable to evaluate the previously noted criteria outlined in the Provincial Policy Statement and therefore are unable to provide a recommendation of approval for this file.

#### **7.1.2 A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) (2020)**

The Growth Plan outlines the principals that provide the basis of guiding decisions in the Greater Golden Horseshoe on how land is developed, resources are managed and protected, and public dollars are invested. Section 2.2.5.8 notes that the *“development of sensitive land uses, major retail uses or major office uses will, in accordance with provincial guidelines, avoid, or where avoidance is not possible, minimize and mitigate adverse impacts on industrial, manufacturing or other uses that are particularly vulnerable to encroachment.”* As noted above, staff have concerns given the absence of any fulsome review of land use compatibility as per the Provincial Guideline D6: Compatibility Between Industrial Facilities. Accordingly, it is the opinion of planning staff that this application should be refused on the basis that insufficient information was provided to support the application in regard to land use compatibility.

#### **7.1.3 City of Brantford Official Plan (Envisioning Our City: 2051)**

The subject lands are designated “Residential” on Schedule 3 of the City of Brantford’s Official Plan (**Appendix B**). The “Residential” designation permits a full range of residential dwelling types, including single detached, semi-detached, converted dwellings and additional residential units, as well as supporting land uses intended to serve local residents.

The subject application conforms to the policies set out in the “Residential” designation of the Official Plan as it will help facilitate the creation of three additional lots for residential use, and allow for the retained lands to be converted into a residential property, resulting in a diversity of dwelling types in the community. However, some aspects of the applications are not in conformity with the Section 5.1 (c) of the Official Plan, *Development Proposal Review*, which includes requirements of compatible development. Further, Section 6.8 (b) of the Official Plan identifies that the City will have regard for the Provincial Guideline D6: Compatibility Between Industrial Facilities, or other applicable policies or guidelines, relating to noise, vibration, odour, particulate matter or other emissions when considering the siting of sensitive land uses. Section 6.8 (e) further states that the development of new employment uses and sensitive land uses shall be subject to Provincial guidelines respecting separation distances between industrial uses and sensitive uses.

Section 9.3 (b) identifies that the division of land shall occur by Draft Plan of Subdivision where an extension of services is required. Concurrently, Section 9.3 (h) identifies that “*new lots shall have frontage on a municipal road, and shall not require that municipal services be extended*” to be created via consent. As identified through review by the Development Engineering, no sanitary sewer is existing along Iroquois Street and services would have to be extended. Servicing a single lot would cause financial hardship to the City therefore, should the application be approved the Owner/Applicant shall be responsible, financial and otherwise, to install sanitary main line along Iroquois Street to provide servicing for the retained parcel. Further, given the need for an extension of services, application B20/2023, which would trigger the need for the extension of sanitary services, does not conform to the policies outlined in the Official Plan.

As noted above, it is the opinion of staff that the proposed application does not provide sufficient information to confirm conformity with this section of the Official Plan.

#### **7.1.4 City of Brantford Zoning By-law 160-90**

The subject lands are zoned “Residential Conversion – Exception 1 (RC-1) Zone” in Zoning By-law 160-90 (**Appendix C**). The RC-1 Zone permits single detached, semi-detached, duplex, triplex, street townhouse and converted dwellings, bed and breakfast establishments, home occupations, etc. The exception also permits a bowling alley on the site. The proposed semi-detached dwellings are permitted in the RC-1 Zone.

## 7.2 Planning Analysis

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 (g – i) of the Official Plan also lists criteria for the subdivision of land and stipulates when consents are appropriate.

Table 2 - Conformity of Applications with Applicable Criteria

Criteria for Considering a Consent Application	Discussion
1. That the plan conforms to the Official Plan	The proposed consent applications are for the purposes of creating three new residential lots.
	The Official Plan encourages a wide range of housing types to accommodate the anticipated population. Section 3.1(d) of the Official Plan promotes the supply of new affordable housing in a variety of locations, dwelling types and tenures.
	Section 9.3 (g – i) of the Official Plan also outlines criteria for the subdivision of land and stipulates when consents are appropriate which includes: <ul style="list-style-type: none"> <li>a) when a Plan of Subdivision is deemed unnecessary and where the application conforms to the policies of the Official Plan,</li> <li>b) no more than three new lots are being created; and</li> <li>c) all lots have frontage on a municipal</li> </ul>

	road and do not require that municipal services be extended
	The proposed development would include As outlined previously in this report, the proposed consents cannot be fully evaluated due to the absence of a Land Use Compatibility study to confirm any potential impacts to the proposed sensitive land use and the surrounding existing employment uses.
2. The dimensions and shapes of the proposed lot	The proposed lots meet the existing RC-1 zoning requirements in Zoning By-law 160-90.
3. The adequacy of utilities and municipal services	Both the severed and retained parcels will have frontage on a municipal roadway, however, as identified by Development Engineering in their comments, sanitary servicing does not currently exist along Iroquois Street and would have access to municipal services and utilities. Accordingly, application B20/2023 would not meet the criteria for lot creation via consent. No concerns were identified regarding applications B18/2023 and B19/2023 meeting this criteria.

### 7.3 Conclusion

A site inspection was completed on April 14 and May 29, 2023. Upon completion of this visit and review of all relevant policies, Planning Staff are not supportive of the application. Planning Staff are not supportive of the proposed development. Having regard for the matters under Section 51 (24) of the *Planning Act*, Staff are of the opinion that the consent applications are not desirable nor compatible with the surrounding area and could result in adverse impacts on surrounding properties. Without the completion of a land use compatibility study, as identified through the *Provincial Guideline D6: Compatibility Between Industrial Facilities*, the potential impacts on the proposed development from the surrounding industrial uses and any potential mitigation strategies cannot be evaluated appropriately.





Prepared by: Nicole Goodbrand  
Senior Planner, Development Planning  
Prepared on: June 1, 2023



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

[illegible]

## Appendix B – Official Plan

### OFFICIAL PLAN EXCERPT MAP

Application: B18/2023, B19/2023 & B20/2023  
144 Mary Street

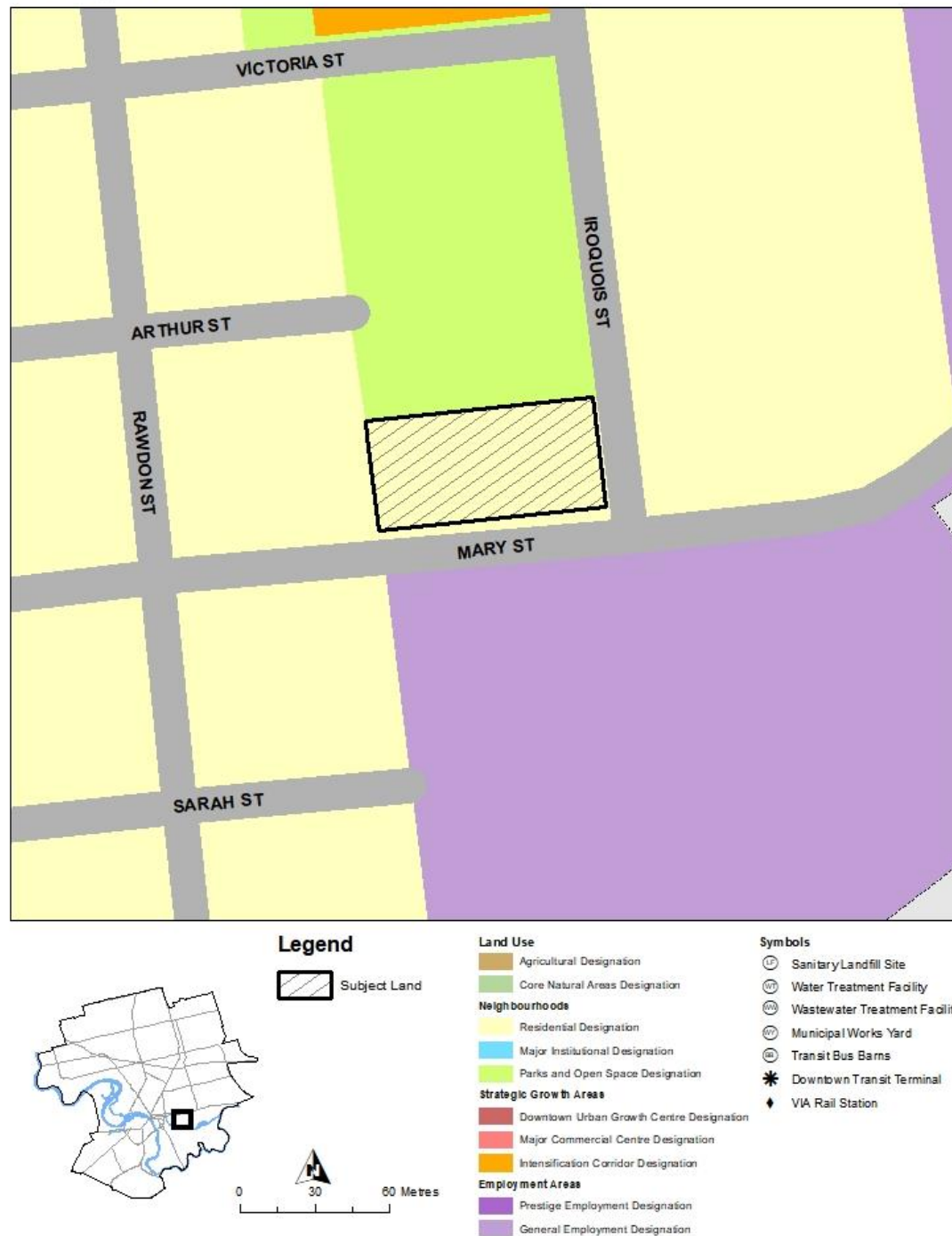


Figure 10 Official Plan Map

## Appendix C – Zoning

### ZONING

Application: B18/2023, B19/2023 & B20/2023  
144 Mary Street

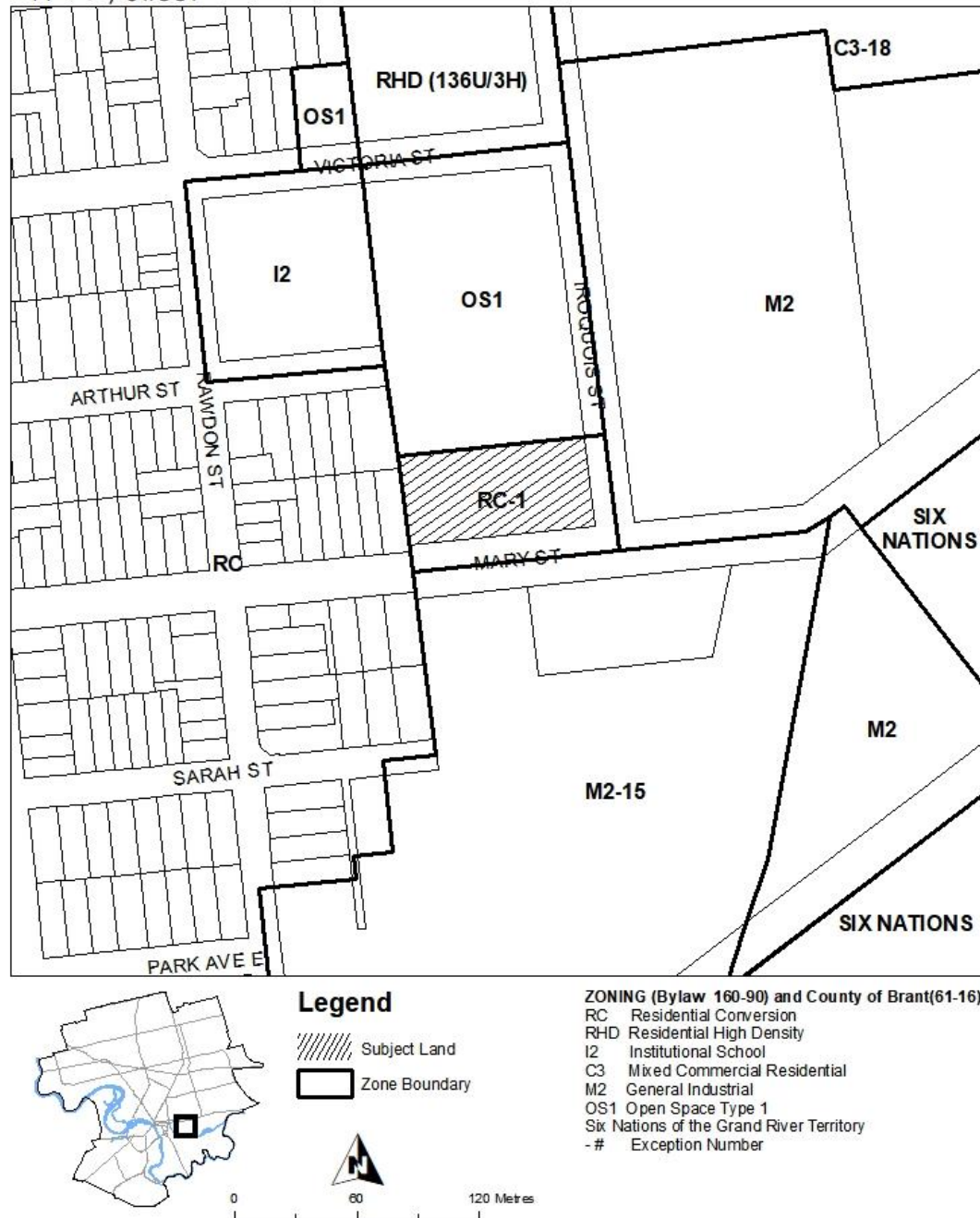


Figure 11 Zoning Map