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Date January 18, 2024 **Report No.** 2024-26
To Chair and Members
City of Brantford Committee of Adjustment
From Lindsay King
Development Planner

1.0 Type of Report

Committee of Adjustment Decision Regarding Application for Minor Variance

2.0 Topic

APPLICATION NO.: A03/2024
AGENT: Spencer Brown
APPLICANT/OWNER: Benikaid Inc c/o Jeff Tang-Kong
LOCATION: 40 Niagara Street

3.0 Recommendation

- A. THAT application A03/2024 seeking relief from Section 6.18.3.3 of Zoning By-law 160-90 to permit two parking spaces in the required front yard, whereas a maximum of one is otherwise permitted, BE APPROVED, conditional upon the submission of an archaeological assessment which will need to start with a Stage 1 Archaeological Assessment and include any subsequent assessments as required by Provincial guidelines, to the satisfaction of the Chief Planner;
- B. THAT the reasons for the approval of the minor variance are as follows: the proposed variance that would provide relief from Section 6.18.3.3 is in

keeping with the general intent and purpose of the Official Plan and Zoning By-law, the relief requested is considered minor in nature and desirable for the appropriate development and use of the subject lands;

- C. THAT Application A03/2024 requesting relief from Sections 6.18.3.9 of Zoning By-law 160-90 to permit 32% landscaped open space in the required front yard, whereas a minimum of 50% is otherwise required, BE APPROVED, conditional upon the submission of an archaeological assessment which will need to start with a Stage 1 Archaeological Assessment and include any subsequent assessments as required by Provincial guidelines, to the satisfaction of the Chief Planner;
- D. THAT the reasons for the approval of the minor variance are as follows: the proposed variance that would provide relief from Section 6.18.3.9 is in keeping with the general intent and purpose of the Official Plan and Zoning By-law, the relief requested is considered minor in nature and desirable for the appropriate development and use of the subject lands; and,
- E. THAT pursuant to 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 2024-26.”

4.0 Purpose and Description of Application

A minor variance application has been received for the lands municipally addressed as 40 Niagara Street, which has a single detached dwelling on site. The applicant was conditionally approved for a severance in 2023 through application B37/2022, the conditions of which still need to be fulfilled. Staff have herein provided a link to the related Staff Report, [2022-591](#). The conditionally approved severed lot is currently vacant. The applicant proposes developing a single detached dwelling with two additional dwelling units and three parking spaces on the approved severed lot. The existing single dwelling on the retained lot is proposed to remain. The applicant had originally planned to develop the severed lot with a single detached dwelling, however the applicant would now like to develop the lot with two additional dwelling units for financial reasons. To facilitate the development as proposed, the applicant is requesting relief from the following section of the Zoning By-law 160-90:

- Section 6.18.3.3 to permit more than one parking space in the required front yard, whereas it is not otherwise permitted, and;
- Section 6.18.3.9 to permit a minimum of 32.5% landscaped open space in the required front yard, whereas 50% is otherwise required.

The subject lot is identified as having 32.5% landscaped open space in the required front yard, however Planning Staff recommend approving 32% to allow for potential discrepancies with the measurements provided.

5.0 Site Features

The subject lands are located on the west side of Niagara Street, south of Usher Street, east of Bond Street, and north of Young Street. The surrounding land use is residential, primarily in the form of single detached dwellings. The surrounding neighbourhood contains several properties with more than one vehicle in their required front yard. The subject lands are designed “Residential” and zoned “Residential Conversion” as shown in **Appendix A** and **Appendix B**, respectively.

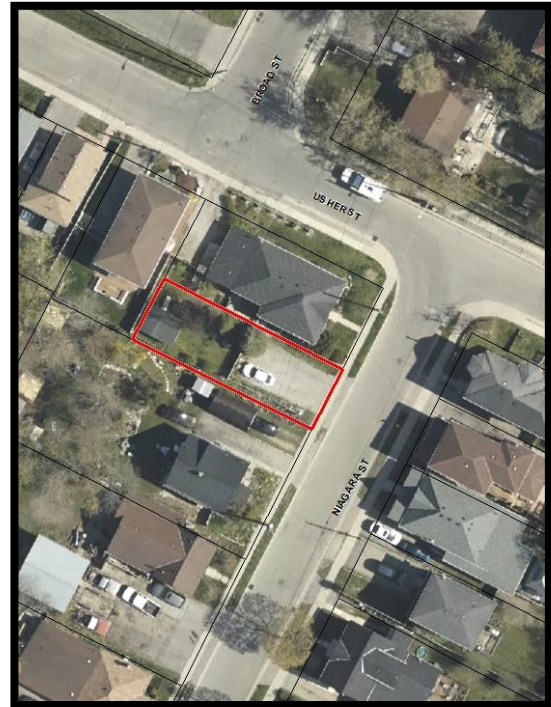
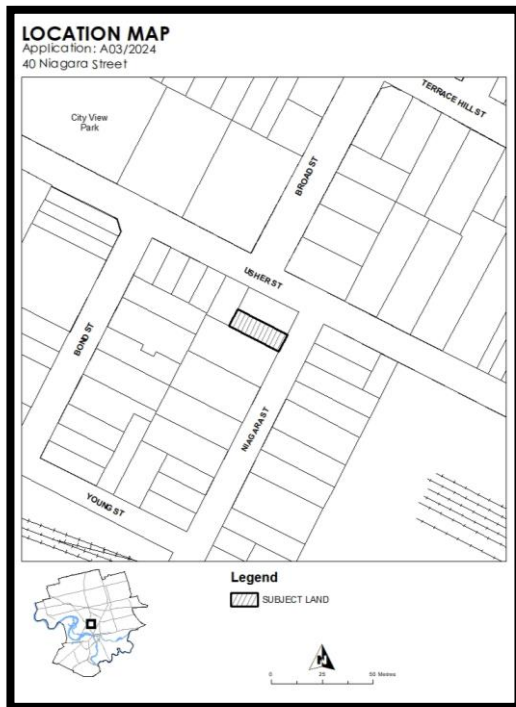


Figure 1 - Location Map

Figure 2 - Aerial Photo



Figure 3 – Site visit view of lot to be developed abutting existing dwelling.



Figure 4– Site visit view of typical drive lane in neighbourhood.

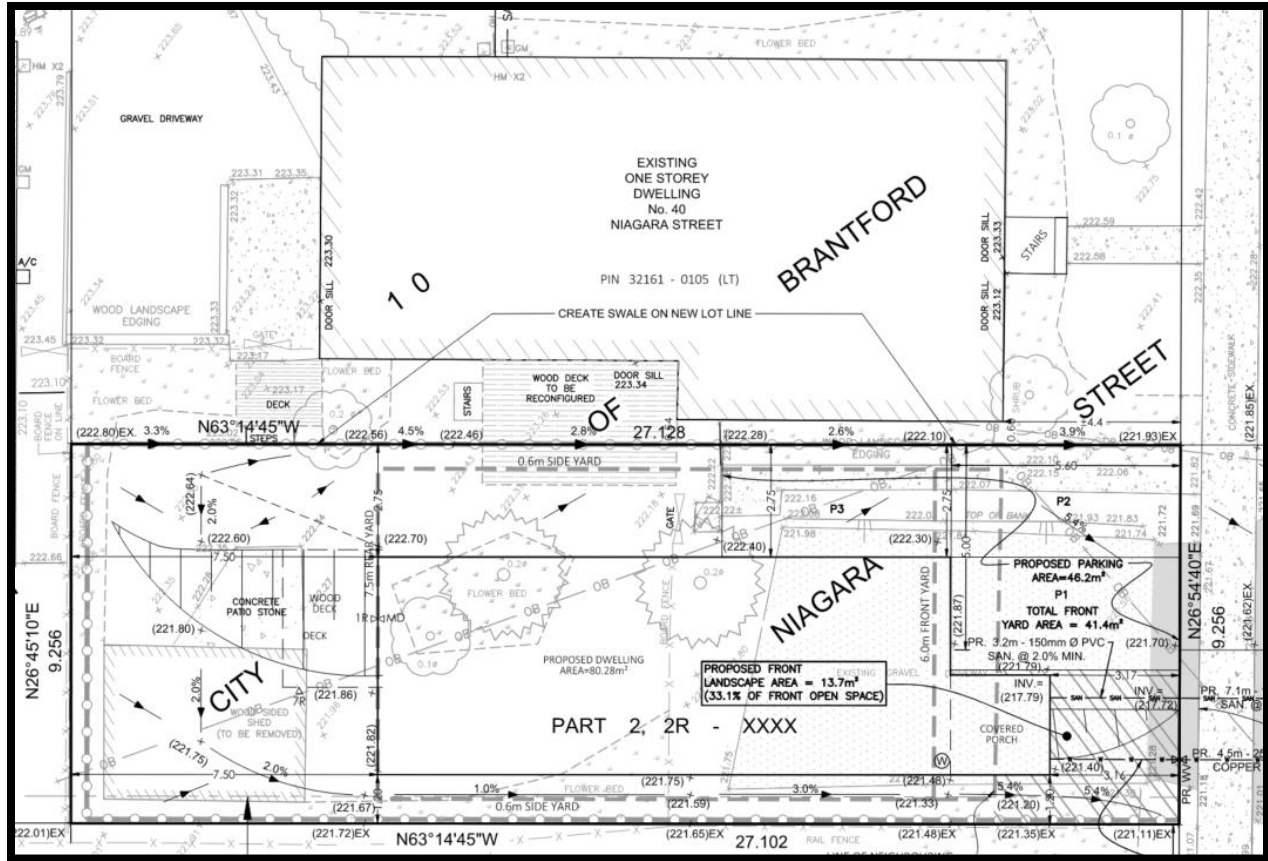


Figure 6 – Concept plan

6.0 Input from Other Sources

6.1 Technical Comments

This application was circulated to all applicable departments and agencies on November 24, 2023. A summary of the associated comments/conditions is provided below:

| Agency Name | Agency Comment |
|---------------------|---|
| Accessibility | No comment |
| Building Department | Due to the lot size requirements in the RC zone, the use of this building will be a single detached dwelling with 2 additional dwelling units and therefore must comply with section 6.32. Please note that Sections 6.32.3 and 6.32.9 no longer apply. As the definition of Accessory Dwelling Unit in the By-Law a separate door is required. Provide location of each entrance to each unit. (this will be checked/confirmed at the time of a building permit application). |

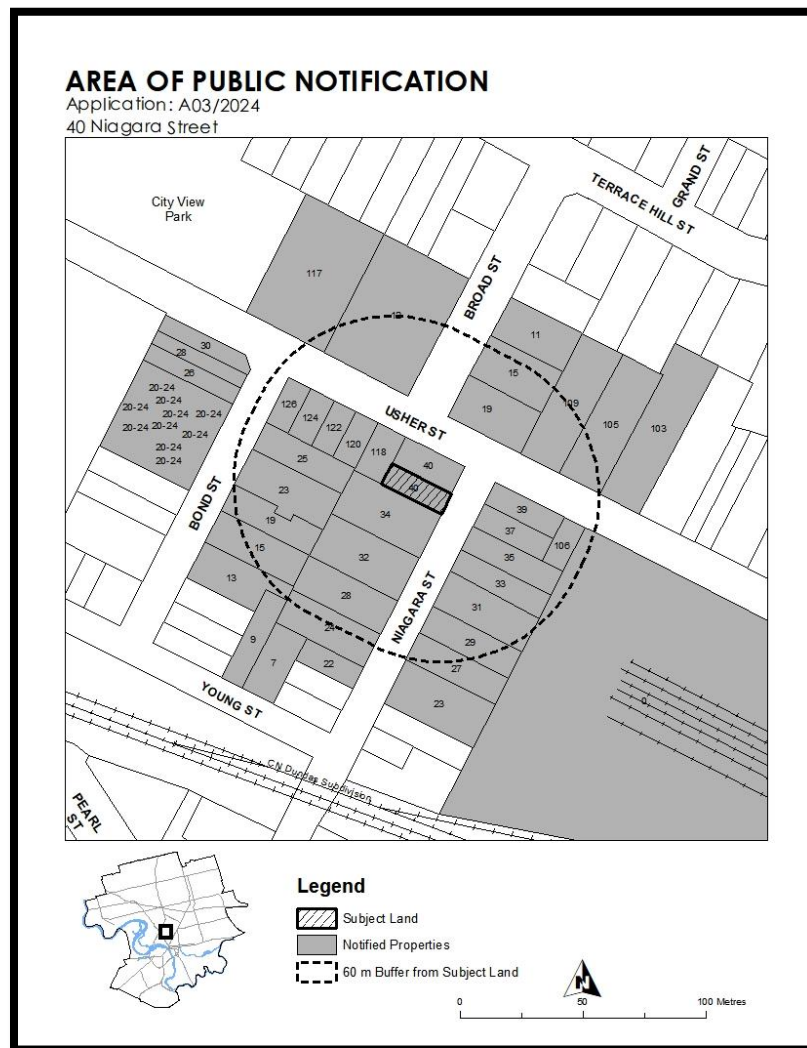
| Agency Name | Agency Comment |
|--------------------------------|---|
| | Fully dimension that front yard landscaped open space. Provide dimension from proposed parking space 1 to covered porch and width of covered porch. (This will be checked/confirmed at the time of building permit application to ensure that the application for minor variance is enough of a reduction in the required 50% landscaped open space). |
| | Any proposed construction or demolition will require that a building permit be applied for and approved through this department. Development charges may be applicable to any new development. |
| Economic Development | No comment |
| Environmental Services | No comment |
| Development Engineering | Post development peak flow rates are to be contained to pre development levels. Please confirm that this is achievable with the increase in imperviousness. |
| Heritage | <p>40 Niagara Street is in an area of Archaeological Potential. An archaeological assessment will be required as a condition of approval for Minor Variance application A03/2024.</p> <p>The archaeological assessment will need to start with Stage 1 Archaeological Assessment and include any subsequent assessments as required by Provincial guidelines.</p> <p>When submitting archaeological assessments to the Ministry, the archaeologist is requested to include heritage@brantford.ca on the PastPort submission form as a point of contact for the City in addition to any others (i.e. planner on file).</p> <p>If archaeological assessment was completed before, please have the applicant provide a copy of all studies and any Ministry letters to demonstrate clearance has occurred.</p> <p>That the Applicant provide all necessary documentation to demonstrate the subject lands have been assessed by a licensed archaeologist and that any archaeological resources have been documented and conserved in accordance with Provincial guidelines.</p> |
| Landscaping | No comment |
| Long Term Planning | No comment |
| Transportation | Staff does not support the reduced parking width, nor do we support having parking within the required front yard as it will negatively affect the retained lot adjacent to this development. |
| Rogers | No comment |

| Agency Name | Agency Comment |
|-------------|----------------|
| Canada Post | No comment |

Table 1 – Technical Comments

6.2 Public Comment

A Notice of Public Hearing was issued by personal mail (48) on December 20, 2023 to property owners within 60 metres of the subject lands pursuant to the *Planning Act*. No public comments were received.



7.0 Figure 4 – Notification Map 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 the analysis is provided below.

| Document | Relevant Policy | Conformity |
|---|---|---|
| Provincial Policy Statement (PPS) (2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) | 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 depend on wisely managing change and promoting efficient land use and development patterns. | Planning staff are of the opinion that the proposed minor variance application is consistent with the direction set out in the PPS and Growth Plan. |
| City of Brantford Official Plan (Envisioning Our City: 2051) | The subject lands are designated Residential. Section 3.0 Successful Communities states that the City will encourage a mix and range of market-based housing types, styles, and tenures. | Planning staff are of the opinion that the proposed minor variance application conforms with the Official Plan. |
| City of Brantford Zoning By-law 160-90 | Section 6.18.3.9 of Zoning By-law 160-90 permits a minimum of 50% landscaped open space in the required front yard. Section 6.18.1 requires that parking spaces have a minimum width of 2.75 m | Aside from the proposed variances, the proposed site conforms with the Zoning By-law. |

Table 2 – Policy Context and Conformity

7.2 Planning Analysis

When evaluating the merits of a minor variance application, the Committee of Adjustment must be satisfied that the four tests of Section 45(1) of the *Planning Act* have been met. To be approved, a minor variance must be minor in nature, desirable for the appropriate development and use of the land, and maintain the general intent and purpose of the Zoning By-law and Official Plan. These tests are discussed in the table below:

| Four Tests | Discussion |
|------------|------------|
|------------|------------|

| Four Tests | Discussion |
|--|--|
| <p>1. That the requested variance is minor in nature</p> | <p>“Minor” is determined by impact, not by the value of the variance being sought.</p> |
| | <p>Although the applicant had requested 17.5%, Staff has amended this calculation by rounding the number to 18% to account for any discrepancies during construction. Allowing for a 18% reduction (32% whereas 50% is required) to the landscaped open space in the required front yard in order to accommodate a parking space alongside the driveway is considered minor in nature.</p> |
| <p>2. That the intent and purpose of the Zoning By-law is maintained</p> | <p>The purpose of required front yard landscaped open space within the Zoning By-law is to ensure that lots are not overdeveloped, to encourage consistent green space along streetscapes, and to support stormwater management.</p> |
| | <p>Currently, the required front yard of the severed lot is entirely paved and used for parking for the adjacent lands (the retained lot), and so the proposal would have the effect of increasing the landscaped open space in this area.</p> |
| | <p>The proposal is consistent with the surrounding front yards in size and coverage. Many of the homes along Usher Street and Niagara Street have similar required front yard landscaped open space as what is being proposed through this application.</p> |
| | <p>While there is no requirement for overall landscaped open space in the Residential Conversion (RC) zone (except for converted dwellings), the proposal shows that approximately 40% will be landscaped open space which will support stormwater management and provide amenity space.</p> |
| <p>3. That the general intent and purpose of the Official Plan is maintained</p> | <p>The subject lands are designated “Residential”, wherein a variety of residential forms are supported.</p> |
| | <p>It is the opinion of Staff that the proposed variance would maintain the general intent and purpose of the Official Plan.</p> |
| <p>4. That the variance is desirable for the appropriate development and use of the land, building or structure</p> | <p>It is the opinion of staff that the proposal is desirable as it would enable two additional dwelling units on this property.</p> |
| | <p>It is the opinion of staff that the proposed reduction to required landscaped open space in the front yard will not have any adverse impacts on the neighbouring properties as the proposed front yard landscaped open space is in</p> |

| Four Tests | Discussion |
|------------|--|
| | keeping with the surrounding properties. |

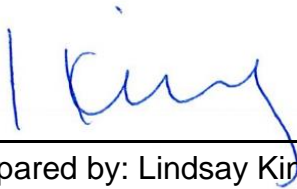
Table 3 – Minor Variance tests for reduction to required front yard landscaped open space

| Four Tests | Discussion |
|---|--|
| 1. That the requested variance is minor in nature | “Minor” is determined by impact, not by the value of the variance being sought. |
| | Allowing for an additional parking space in the required front yard is deemed to be minor in Staff’s opinion. |
| 2. That the intent and purpose of the Zoning By-law is maintained | The purpose of parking regulations within the Zoning By-law are to ensure there is adequate off-street parking maintained to accommodate residents and/or visitors to a building. |
| | There are nearby properties that have more than one parking space in the required front yard. |
| | Although there is no zoning provision for minimum landscaped open space in this Zone, the proposal shows approximately 40% landscaped open space, which exceeds the requirement in other residential Zones. |
| | The additional parking space in the required front yard maintains the intent and purpose of the Zoning By-law. |
| 3. That the general intent and purpose of the Official Plan is maintained | The subject lands are designated “Residential”, wherein a variety of residential forms are supported. |
| | The Official Plan also highlights several guiding principles aimed at promoting strategic intensification with a balanced mix of housing options. The proposed relief would allow for three additional units on the subject lands. Therefore, the proposed minor variance would help increase the supply of housing. |
| | The proposal maintains the general intent and purpose of the Official Plan. |
| 4. That the variance is desirable for the appropriate development and use of the land, building or structure | Staff are of the opinion that the proposal is desirable as it would enable additional residential development and be an efficient use of land. |
| | The additional parking space in the required front yard will not adversely impact neighbouring properties as it is in keeping with the character of the neighbourhood. |

Table 4 – Minor Variance tests for additional parking space in the required front yard

7.3 Conclusion

A site inspection was completed on January 2, 2023. Upon completion of this visit and review of all applicable policies, Staff are supportive of the requested variance regarding file A03/2024. The supported variances would facilitate additional residential development that is in keeping with the surrounding neighbourhood. For the reasons discussed above, the minor variances satisfy the criteria of Section 45(1) of the *Planning Act*, and staff recommend approval, as amended for application A03/2024.



Prepared by: Lindsay King
Planner, Development Planning
Prepared on: January 10, 2024

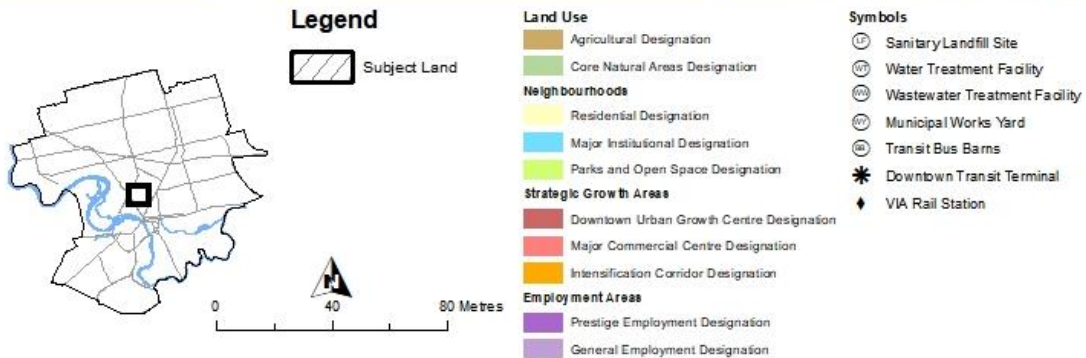
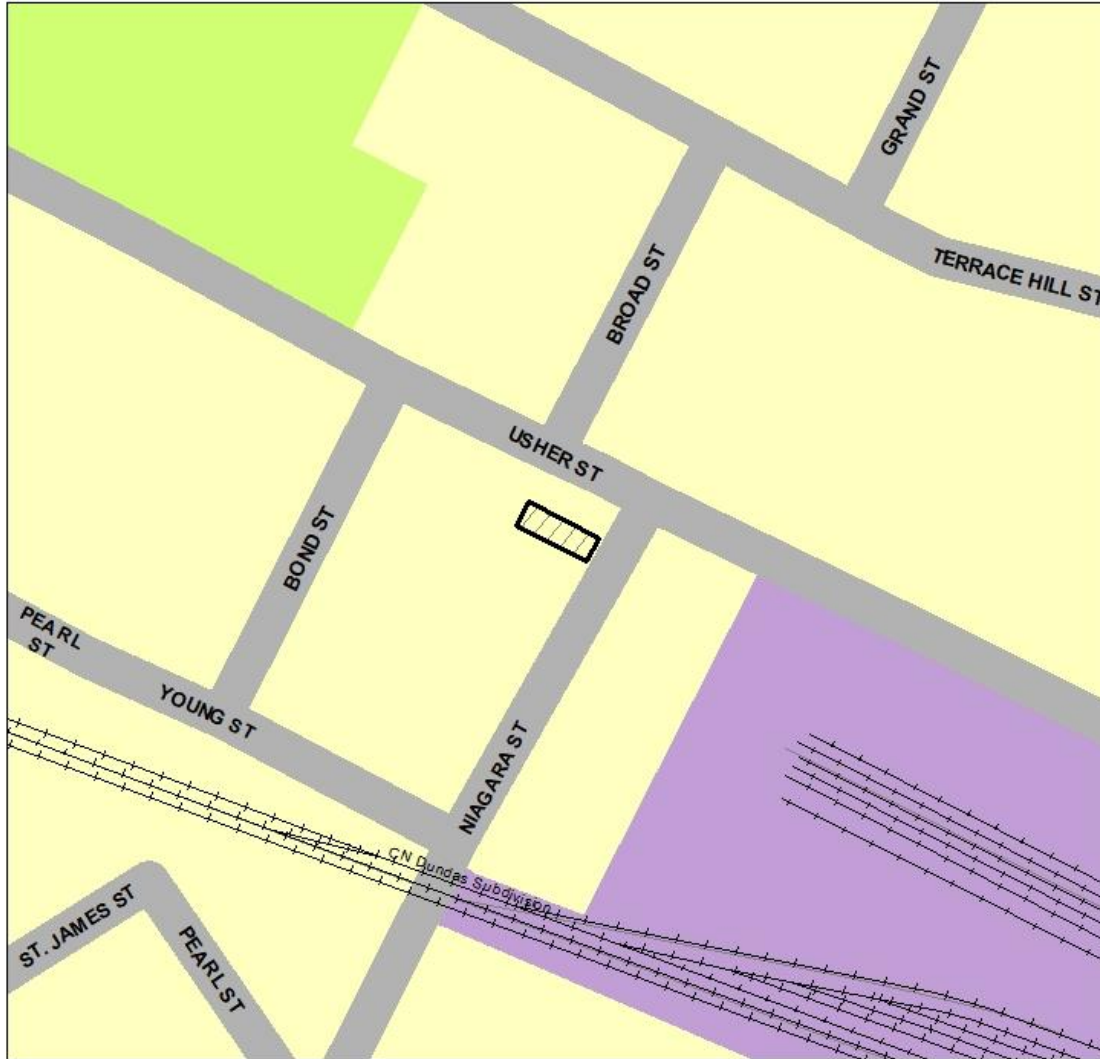


Reviewed by: Joe Muto, MCIP, RPP
Manager of Development Planning

Appendix A – Official Plan

OFFICIAL PLAN EXCERPT MAP

Application: A03/2024
40 Niagara Street





Appendix B – Zoning

ZONING

Application: A03/2024
40 Niagara Street



Legend

-  Subject Land
-  Zone Boundary



0 25 50 Metres

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
RHD RESIDENTIAL HIGH DENSITY
OS1 OPEN SPACE Type 1
H HOLDING PROVISION
-# Exception Number