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Date February 7, 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 Consent

2.0 Topic

APPLICATION NO.: B08/2024

AGENT: J.H. Cohoon Engineering Ltd. c/o Bob Phillips

APPLICANT/OWNER: 1821154 Ontario Ltd.

LOCATION: 33 and 43 Erie Avenue and 100 Market Street South

3.0 Recommendation

- A. THAT Consent application B08/2024 requesting to sever a parcel of land from the subject property addressed as 33 Erie Avenue, 43 Erie Avenue, and 100 Market Street South, having a lot area of 10,120 m², and to retain a parcel of land having a lot area of 5,610 m², BE APPROVED; subject to the conditions attached as **Appendix A** to Report 2024-26.
- B. THAT the reason(s) for approval of B08/2024 are as follows: the proposed consent has regard for the matters under Section 51(24) of the *Planning Act*, Staff are satisfied that the proposed development is desirable and

compatible with the surrounding area and will not result in adverse impacts on surrounding properties. The application is in conformity with the general intent and policies of the Official Plan and Zoning By-law, specifically Section 9.3 (g-i) of the Official Plan respecting consent applications within the City of Brantford; and

- C. 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. 2024-64.”

4.0 Purpose and Description of Application

The City of Brantford received a consent application for the lands municipally known as 33 Erie Avenue, 43 Erie Avenue, and 100 Market Street South, outlining a proposal to sever an irregularly shaped parcel with a frontage of 43.16 m onto Erie Avenue and with a total lot area of 5,610 m². This initial phase of a multi-phased development plan, if approved, would facilitate the construction of an 18-storey mixed-use building comprised of 226 residential units and approximately 1107 m² of ground floor commercial space on the proposed severed lands. A Severance Plan is included in **Figure 1** and two site rendering illustrations are provided in **Figure 2** and **Figure 3**.

The applicant plans to locate 187 of the 197 required parking spaces for the mixed-use building on the severed lands, and to temporarily locate the additional 13 parking spaces on the proposed retained lands. A parking agreement would facilitate this interim solution, aligning with Section 6.18.3 of the City of Brantford’s Zoning By-law. Upon construction of a three-storey parking structure, the property owners would consolidate all 197 required parking spaces onto the same property. The planned easements, integral to the future development phases, are designed to allow the proposed parking structure to serve all future severed lots. These easements would enable access to the parking garage to benefit future developments on the proposed retained lands. This has all been identified and contemplated in the site plan control application SPC-11-23, and the applicant has been made aware of these requirements. **Appendix B** shows the concept plan submitted with this Site Plan Application.

The submitted Planning Justification Report explains that the envisioned outdoor residential amenities will be on the roof of the parking structure. The zoning of the subject lands is F-C1-17, which does not mandate a required rear or side

5.0 Site Features

The subject lands currently have the Brantford Convention Centre, a restaurant, and two vacant buildings on site. An 18-storey mixed-use development presently exists on the northwestern abutting property. **Figure 3** shows the location of the planned mixed-use building on the proposed severed lot. That property, combined with the subject lands, is bordered by Erie Avenue along the north, Veterans Memorial Parkway along the southeast, and Market Street South along the west. The old Toronto, Hamilton and Buffalo (TH&B) Railway Station is located alongside a dental clinic across from Erie Avenue to the north. A gas station exists across from the subject lands where Erie Avenue and Veterans Memorial Parkway intersect. A retail establishment alongside Jim Walsh Park is across Veterans Memorial Parkway south of the subject lands. Finally, Earl Haig Family Fun Park and Community Gardens are across Market Street South to the west. The Grand River runs southeast approximately 200 metres southwest of the subject lands, and the Brantford Civic Centre sits approximately 250 metres to the northwest.

The subject lands are also within the Downtown Urban Growth Centre Designation under the Official Plan, as shown in **Appendix C**. The City encourages economic revitalization in this designation by supporting development that provides cultural and entertainment value. The target density for this designation is 150 residents and jobs per hectare by 2031. The subject lands are zoned “Floodplain – Core Commercial – Exception 17 (F-C1-17)” as shown in **Appendix D**. The lands were approved for a Zoning By-law Amendment through By-law No. 148-2022, effectively rezoning the lands as F-C1-17. This site-specific zoning permits a Minimum Landscaped Open Space of 6.5%, a Minimum Parking Space ratio of 0.7 parking spaces per dwelling unit or one space per 27 m² of commercial Gross Floor Area, and a maximum building height of 18-storeys, as detailed in Staff Report [2022-524](#). The subject lands are within the Grand River Conservation Authority’s jurisdiction, identified as Special Policy Area 1 in the Official Plan, which limits development by prohibiting basements and crawlspaces, new essential emergency service operations, and uses that would permit vulnerable persons to occupy the site (i.e. in the form of day nurseries, schools, hospitals, etc.). A Site Plan Control application (File No. SPC-11-2023) is currently being processed for this proposal.

Figure 2 - Architectural Rendering



Figure 3 - Architectural Rendering



Figure 4 - Location of Proposed Residential Development



6.0 Input from Other Sources

6.1 Technical Comments

As stated above, this development is subject to Site Plan Control, and Staff are completing a detailed review the proposed development through that process. Staff from Accessibility, Economic Development, Fire, Heritage Planning, Parks, and Real Estate had no comments on the proposed consent application. Development Engineering staff requested several conditions requiring various permits associated with servicing the site, a site plan agreement and the establishment of multiple easements for access, servicing and drainage. The subject lands are also within a Source Water Protection Zone, so they are required to complete a Restricted Land Use Form, and they may be required to complete a Risk Management Plan. While this site does have archaeological potential, a previous Archaeology Study has been completed on the site.

The Grand Erie District School Board identified that the subject lands are within the school boundary for Princess Elizabeth Public School and Pauline Johnson Collegiate & Vocational School. The schools are currently at 79% and 72% capacity, respectively. They state that because of the overall development scope (they referenced figures relating to the overall site, including the proposed severed and retained lands), these schools may not have the capacity for all potential students on the proposed site and have requested a condition for a future Site Plan Agreement that future Purchase of Sales/Lease include a warning to this effect.

6.2 Public Response

A notice of public hearing was issued by personal mail (10 notices) and by posting a sign on-site. At the time of writing this Report, no members of the public have contacted Staff regarding this application.

7.0 Planning Staff Comments and Conclusion

When evaluating the merits of a Consent application, the Committee of Adjustment must be satisfied that the criteria established in Section 51(24) of the *Planning Act* has been satisfied, as summarized in the **Table 1** below.

Table 1 – Planning Act Criteria

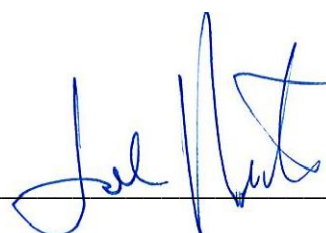
Criteria for Considering a Consent Application	Discussion
<p>The plan conforms to the Official Plan</p>	<ol style="list-style-type: none"> 1. The proposed consent application is to create one new mixed-use lot within the existing downtown area. 2. The Official Plan encourages various uses in the Downtown Urban Growth Centre Designation, including residential, commercial, and institutional. <u>Section 5.3.1</u> of the Official Plan promotes economic revitalization through developments that support culture and entertainment. Section 5.3.1(a) identifies a minimum density target for 150 residents and 150 jobs/ha by 2031. Section 5.3.1(j) specifies that these lands should accommodate significant intensification through redevelopment opportunities for vacant or underutilized lands and through residential intensification. 3. Section <u>9.3(g)</u> 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 and when 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 4. The subject lands are within Special Policy Area 1, which, according to <u>Section 6.1.2</u>, means that the lands must not be used in a way that permits vulnerable people (i.e. daycares, hospitals, retirement homes) to occupy the site; must not be used for essential emergency services; must not include basements or crawlspaces; and must be subject to Site Plan Control and Conservation Authority approval.

Criteria for Considering a Consent Application	Discussion
	This application to create one lot that has frontage on a municipal road and municipal servicing meets the policies of the Official Plan.
The dimensions and shapes of the proposed lot	<p>The proposed lot is irregularly shaped:</p> <ul style="list-style-type: none"> a) The lands available for development, which are shaped by existing transportation routes; b) The preference to enter the site from Market Street South, rather than Erie Avenue due to prevailing traffic levels; and, c) Limited space, and the plan to develop a central parking structure that would serve future phases of development on the proposed retained parcel (as shown in Figure 2).
The adequacy of utilities and municipal services	Both the severed and retained parcels will have frontage on a municipal roadway and have access to municipal services and utilities. A number of proposed conditions pertaining to servicing and access easements also address the need for adequate servicing.

Staff completed a site inspection on Monday, January 22nd, 2024. Upon completion of this site visit and review of the relevant policies, Planning Staff support the application. The proposed consent application would facilitate significant mixed-use development that is in keeping with the strategic direction for these lands, as explained in the Official Plan. Staff recommends approval of application B08/2024.



Prepared by:
Lindsay King
Development Planner



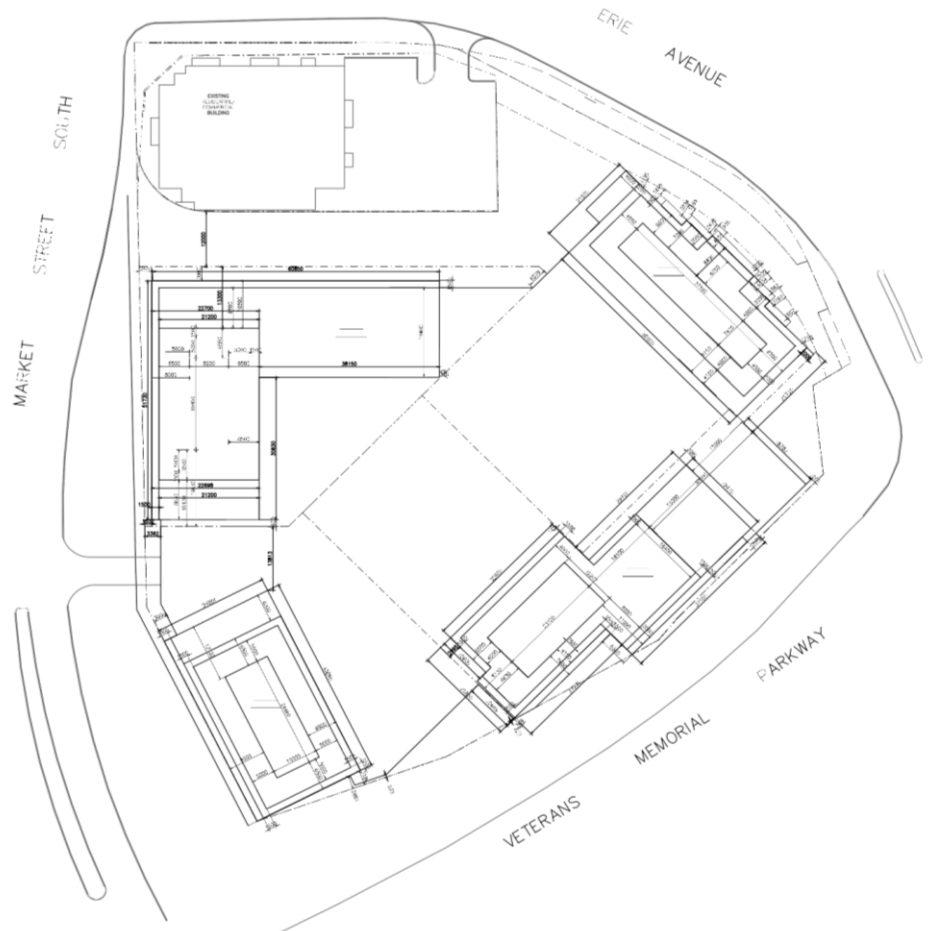
February 1, 2024 Reviewed by:
Joe Muto MCIP, RPP
Manager of Development Planning

Appendix A – Conditions Of Approval

1. Receipt of a registered reference plan showing the severed and retained parcel and the proposed easements;
2. Receipt of confirmation that the lands to be severed and retained have easements registered on title allowing for access, servicing, drainage and any other shared facilities or infrastructure contemplated under site plan approval, to the satisfaction of the Manager of Development Engineering or their designate;
3. Receipt of confirmation from the Manager of Development Engineering or their designate that a road widening strip has been conveyed to the City, at no cost to the municipality, with any costs regarding the transfer being borne by the applicant;
4. Receipt of confirmation from the Manager of Environmental Services or their designate that a Restricted Land Use Form and Risk Management Plan, if required, have been submitted to their satisfaction;
5. That the applicant has provided a signed Site Plan Agreement to the City of Brantford, along with all necessary securities, to the satisfaction of the Manager of Development Planning;
6. Receipt of confirmation that an Off-Site Parking Agreement has been entered into with the City of Brantford and registered on title to facilitate the 13 off-site parking spaces;
7. Receipt of a draft of the Transfer deed for review (*Upon registration a final copy of the Transfer deed shall be provided to the City*), to the satisfaction of the Manager of Development Planning;
8. Receipt of confirmation that all existing buildings and structures located on the severed lot are demolished or otherwise removed to the satisfaction of the Chief Building Official or their designate;
9. The Owner/Applicant shall provide a Grading and Drainage Plan to the satisfaction of the Manager of Development Engineering or their designate, prepared by a qualified Engineer licensed in the Province of Ontario;
10. The Owner/Applicant shall provide a Servicing Plan to the satisfaction of the Manager of Development Engineering or their designate, indicating that the severed and retained parcels have been independently serviced with a sanitary and storm sewer connection;

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11. The Owner shall be responsible, financial and otherwise, to provide sanitary and storm sewer connections to each parcel of land (severed and retained) to ensure each parcel has been independently serviced to the satisfaction of the Manager of Development Engineering or their designate;
 12. Receipt of confirmation from the Manager of Development Engineering or their designate that a Wastewater Allocation Request Form has been submitted and approved;
 13. Receipt of confirmation from the Manager of Development Engineering or their designate that a Sanitary Lateral Connection Permit has been approved for any required sanitary service connections;
 14. Receipt of confirmation from the Manager of Development Engineering or their designate that a Water Connection Permit has been approved;
 15. Receipt of confirmation from the Manager of Development Engineering or their designate that full public services are constructed or replaced if damaged including sidewalks, boulevards, driveway approaches, and noise barriers;
 16. Receipt of confirmation from the Manager of Development Engineering or their designate, indicating that a Municipal Numbering Assignment Request has been processed;
 17. Receipt of confirmation that all taxes are paid up to date, to the satisfaction of the Manager of Development Planning;
 18. Receipt of confirmation from the Environmental Services Department or their designate indicating that their requirements have been met, to the satisfaction of the Manager of Development Planning;
 19. Receipt of confirmation from the Building Department indicating that their requirements have been met, to the satisfaction of the Manager of Development Planning;
 20. Receipt of confirmation from the Manager of Development Engineering Department or their designate, indicating that their requirements have been met;
 21. That the above conditions be fulfilled and the Certificate of Consent be issued on or before **February 7, 2026**, after which time the consent will lapse.

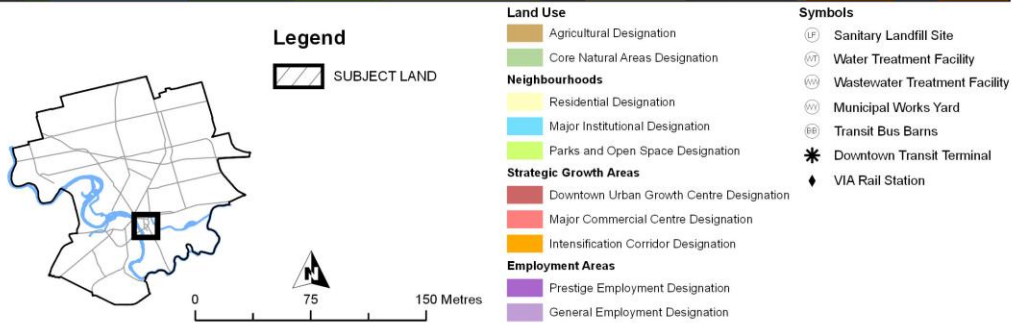
Appendix B – Site Plan Submitted with SPC-11-23



Appendix C - Official Plan Designation

OFFICIAL PLAN EXCERPT MAP

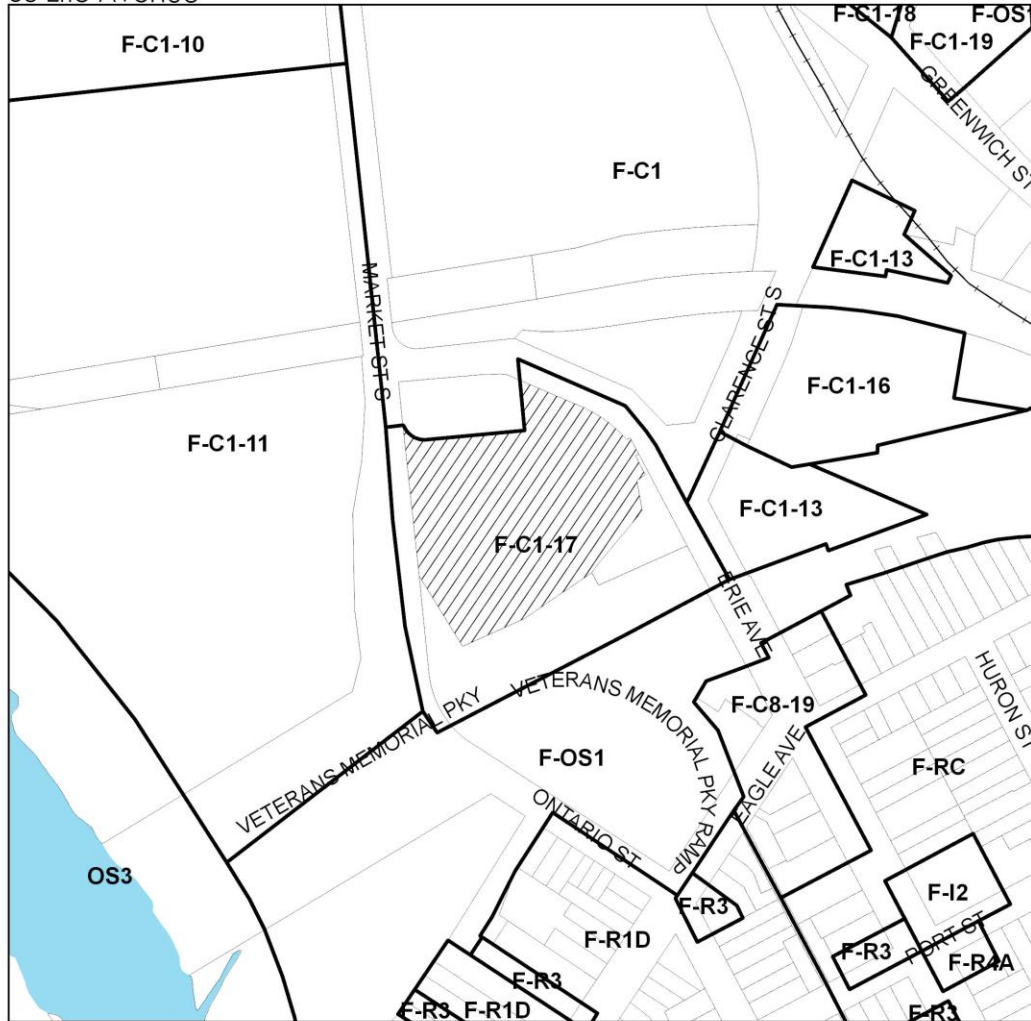
Application: B08/2024
 33 Erie Avenue



Appendix D - Zoning

ZONING MAP

Application: B08/2024
 33 Erie Avenue

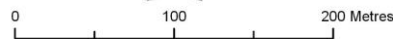


ZONING (Bylaw 160-90) and County of Brant(61-16)



Legend

- SUBJECT LAND
- ZONE BOUNDARY



- R1D RESIDENTIAL Type 1D (9 metre)
- R3 RESIDENTIAL Type 3
- R4A RESIDENTIAL MEDIUM DENSITY Type A
- I2 INSTITUTIONAL SCHOOL
- C1 CORE COMMERCIAL
- C8 GENERAL COMMERCIAL
- OS1 OPEN SPACE Type 1
- OS3 OPEN SPACE RESTRICTED
- F FLOODPLAIN PROVISION
- # Exception Number