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Date March 7, 2024 **Report No.** 2024-141
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 Applications for Consent and Minor Variance

2.0 Topic

APPLICATION NO.: B11-2024 and A10-2024
AGENT: Arcadis c/o Odete Gomes
APPLICANT/OWNER: 2607315 Ontario Inc., Lift Capital Incorporated, 2684544 Ontario Inc. c/o DAR Homes
LOCATION : 339, 341, 353 St. Paul Avenue and 120 St. George St.

3.0 Recommendation

- A. THAT consent application B11-2024 requesting to sever a parcel of land from the subject lands municipally addressed as 339, 341, and 353 St. Paul Avenue and 120 St. George Street, having a lot area of approximately 5,365.98 m² and retain a lot having an area of approximately 3,473.45 m². BE APPROVED; subject to the conditions attached to Report 2024-141 as **Appendix A**, and;

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- B. THAT the reasons for approval of B11-2024 are as follows: the proposed consent has regard for the matters under Section 51(24) of the *Planning Act*, is suitable for the lands, in the public interest, and would not result in adverse impacts on the surrounding properties, and conforms with the general intent and purpose of the Zoning By-law and Official Plan, and;
 - C. THAT application A10-2024 seeking relief from Section 9.8.2.1.8 to permit a minimum of 8.5% Landscaped Open Space, whereas 10% is otherwise required, BE APPROVED; THAT application A10-2024 seeking relief from Section 9.8.2.13.7 to permit a minimum ground floor height for the existing medical building on the proposed retained lands of 3.8 m, whereas 4.5 m is otherwise required, BE APPROVED;
 - D. THAT application A10-2024 seeking relief from Section 9.8.2.13.9.1 to permit a minimum rear yard abutting a Residential Zone for the proposed severed lands of 6.42 m whereas 7.5 m is otherwise required, BE APPROVED;
 - E. THAT application A10-2024 seeking relief from Section 9.8.2.13.10.2 to permit a side yard abutting a building with windows on a facing wall of 4.0 m, whereas 5.5 m is otherwise required, BE APPROVED;
 - F. THAT application A10-2024 seeking relief from Section 6.18.7.1 to permit 98 parking spaces for the proposed mixed-use building on the proposed severed lands, whereas 103 are otherwise required, BE APPROVED;
 - G. THAT application A10-2024 seeking relief from Section 6.18.7.1 to permit 51 parking spaces for the existing medical building on the proposed retained lands, whereas 53 are otherwise required, BE APPROVED;
 - H. THAT the reasons for the approval of the minor variances are as follows: the proposed variances are 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;
 - I. THAT application A10-2024 seeking relief from Section 9.8.2.13.7 to permit a minimum ground floor height for any future mixed-use building on the proposed severed lands of 3.8 m, whereas 4.5 m is otherwise required, BE REFUSED;
 - J. THAT the reasons for the refusal of the minor variances in Recommendation "I" are as follows: the proposed variances is not in keeping with the general intent and purpose of the Official Plan and Zoning By-law, the relief

requested is not considered minor in nature or desirable for the appropriate development and use of the subject lands; and,

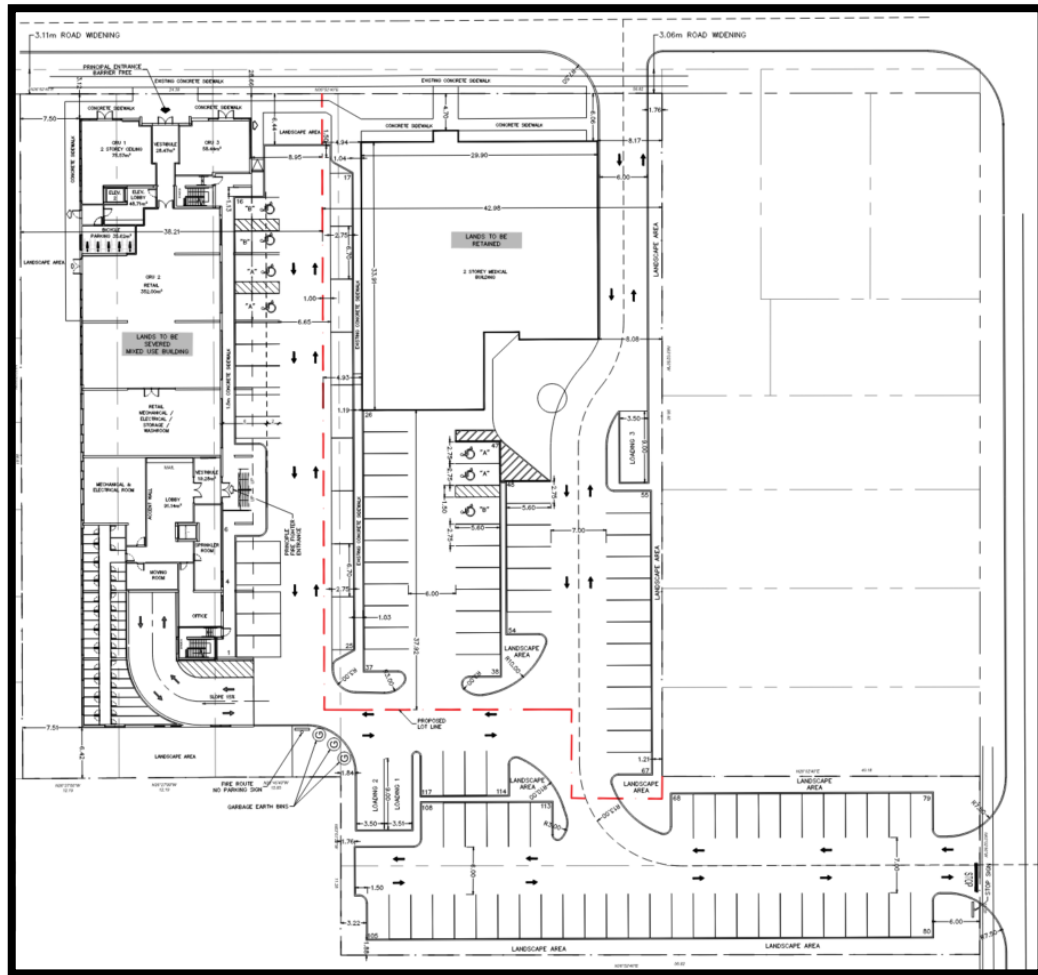
- K. THAT pursuant to Section 45(8)-(8.2) of the *Planning Act*, R.S.O. 1990, c. P. 13, the following statements SHALL BE INCLUDED in the Notice of Decision:

“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 2024-141.”

4.0 Purpose and Description of Applications

This joint minor variance and consent application submission encompasses four abutting parcels of land. The purpose of the consent application is to sever these lands into two separate lots. The proposed retained lot will continue to function as a medical services building, and a mixed-used development project is planned for the proposed severed lot. This mixed-use building would have 85 one and two-bedroom units and a ground-floor commercial space. Minor variances are being sought to address any zoning deficiencies and to facilitate the development of the proposed mixed use building. Mutual access easements are also sought through this consent application to facilitate fire route access and ensure access to required parking. **Figure 1** illustrates the severance plan.

Figure 1 - Severance Plan



To accommodate the proposed development, the applicant has requested the relief summarized in **Table 1**. The City has also received a Site Plan Application (File No. SPC-15-2021) for the proposed mixed-use building.

5.0 Site Features

This property is designated “Intensification Corridor” as shown in **Appendix B** and zoned “General Commercial” as shown in **Appendix C**. 339 and 341 St. Paul Avenue currently have vacant dwelling units on site that the applicant proposes demolishing to accommodate the mixed-use building. 353 St. Paul Avenue has an existing medical services building that is proposed to remain. The lands at 120 St. George Street has an existing convenience store that the applicant proposes demolishing to accommodate access to the proposed mixed-use building. This existing convenience store and the proposed parking access location are shown in **Figure 2**.

Table 1 - Minor Variance Requests

PROVISION		REQUIRED C8 ZONE & SCH. M	PROPOSED MIXED USE BUILDING	PROPOSED EXISTING MEDICAL BUILDING
Total Number of Residential Units		NIL	85 units	N/A
Lot Width		NIL	42.98m ²	38.22m ²
Lot Area		NIL	5,365.42m ²	3,474.01m ²
Front Yard Setback		NIL	3.0m	4.7m
Side Yard Setback	Residential Zone	7.7m	7.5m	4.0m
	Building with Windows Facing Wall	5.5m	7.5m	4.0m
	Any Other Wall	NIL	6.06m	N/A
Rear Yard Setback to Residential Zone		7.5m	6.42m	37.92m
Lot Coverage		100% Max	28.51%	25.48%
GF Height		4.5m	3.60m	4.5m
Building Height (Minimum - maximum)		2- 6 Storeys	6 storeys	1 storey
Landscaped Open Space		15%	23.57%	8.66%
Planting Strip Between Surface Parking & Residential Zone Abutting Rear /Side Lot Line		1.5m	1.76m	1.76m
Parking Spaces		53 -Existing Building 103 – Proposed Building	98 (Includes 4 Accessible Spots)	51 (Includes 3 Accessible Spots)

Figure 2 - Proposed Parking Access



Surrounding the subject property is a variety of nearby dwelling types, sizes, and densities. There is a six-storey apartment building on the adjacent lands to the east, and a gas station on the southern abutting lands. The subject area is approximately 275 m northeast of the Brantford General Hospital. **Figure 2** shows the two existing vacant dwelling units and the medical services building, each fronting St. Paul Avenue.

Figure 3 - 339 - 353 St. Paul Avenue



6.0 Input from Other Sources

6.1 Technical Comment

Staff circulated this application for technical review on January 26, 2024. The following is a summary of pertinent technical feedback:

Development Engineering Transportation Staff highlighted the necessity for a shared parking agreement and access easement to be registered on title to facilitate the parking arrangement as proposed. Additionally, staff raised concerns regarding the underground parking garage, which measures less than the required 3.35 m of clear height for access to parking. Through conversations with staff and the applicant, it was determined that this relief was not required as the relevant Section (6.18.4.4) applies only for access to accessible parking spaces, and the accessible parking spaces for this development are not underground.

Economic Development Staff, while supportive of the proposed parcel amalgamation and redevelopment, is not in support of the requested reduction to minimum ground floor height from 4.5 m to 3.6 m. Staff think that the new mixed-used building fronting onto St. Paul Avenue should maintain the required 4.5 m ceiling height to assist in ensuring desirable commercial units that can accommodate a wide variety of future tenants and uses.

Mississaugas of the Credit First Nation (MCFN) Staff requested copies of all Environmental Study reports and a Stage 1 Archaeological Study to assess the archaeological potential of the site. Furthermore, and if deemed necessary following the Stage 1 Study, MCFN requested the involvement of an MCFN field liaison in any Stage 2 Archaeological Study conducted on-site.

Building Department Staff noted that the relief originally sought for the interior side yard of an existing medical building is not required since these lands do not have residential zoning. They also requested drive aisle widths and stated that adequate access to loading spaces is required. This can be assured at the Site Plan stage.

Environmental Services Staff raised no major concerns with the proposal but clarified the need to work with staff to remove the water service prior to the demolition of the vacant single dwellings and the convenience store. They also shared that due to the volume of waste and recycling materials, private waste collection services would be mandated at the building owner's expense.

6.2 Public Comment

This application was circulated for public consultation to the owner’s of properties within 60 m of the subject lands on February 15, 2024, as shown in **Figure 4**. At the time of writing this Report, no public comments have been received.

Figure 4 - Notification Map



7.0 Planning Staff Comments and Conclusion

Planning staff have thoroughly reviewed the proposed consent and redevelopment of the subject lands and are supportive of the overall applications. **Table 2** details the four tests of a minor variance in the context of this application, and **Table 3** details consent criteria.

Table 2 - Four Tests of a Minor Variance

Four Tests	Discussion
1. That the requested variance is minor in nature	“Minor” is determined by impact, not by the value of the sought variance. The proposed variances are considered minor because they will not significantly affect surrounding properties or the overall community. However, relief from the minimum ground floor height is deemed significant due to its potential

Four Tests	Discussion
	<p>impact on the functionality and desirability of the commercial spaces. Staff are concerned that reducing the ground floor height could limit the versatility of the commercial units, potentially hindering their appeal to a diverse range of tenants and future uses.</p>
<p>2. That the intent and purpose of the Zoning By-law 160-90 is maintained</p>	<p>The requested variances align with the overarching objectives of the General Commercial Zone by promoting mixed-use development and intensification. The shared access easements will ensure efficient land use, and foster cohesive site functionality, which is consistent with the intended functionality of the zone. While the requested setbacks deviate slightly from the specific zoning requirements, the collaborative approach to parking and access would address any significant departure from the zoning by-laws intent. The variance pertaining to minimum ground floor height represents a departure from the intent of the Zoning By-law. Staff also note that this provision has also been carry over into the draft Zoning By-law.</p>
<p>3. That the general intent and purpose of the Official Plan is maintained</p>	<p>The requested variances uphold the broader objectives of the Official Plan by facilitating residential intensification and mixed-use redevelopment in a designated Intensification Corridor. The proposed project aligns with the Official Plan’s vision of fostering a dynamic urban space that is pedestrian-friendly and encourages transit-oriented development.</p>
<p>4. That the variance is desirable for the appropriate development and use of the land, building or structure</p>	<p>The proposal is desirable as it effectively transforms underutilized parcels into much needed housing while also facilitating commercial development, aligning with the City’s goals for urban revitalization and intensification. The requested variances play a crucial role in optimizing parking while minimizing parking congestion, thereby enhancing the overall functionality and accessibility of the site. However, the deviation from the required ground floor height for the commercial unit is not appropriate as it may reduce the desirability of the commercial space, disrupt the desired streetscape aesthetics, and potentially establish a precedent for visually inconsistent development patterns along this corridor.</p>

Table 3 - Consent Criteria

Criteria for Considering a Consent Application	Discussion
<p>1. That the application conforms to the Official Plan</p>	<p>Section 9.3 (g – i) of the Official Plan outlines criteria for the subdivision of land and stipulates when consents are appropriate which includes:</p> <ul style="list-style-type: none"> <i>g) A Consent to sever land shall only be considered where a Plan of Subdivision is deemed to be unnecessary and where the application conforms to the policies of the Official Plan,</i> <i>h) The maximum number of new lots approved by the City on one property through Consent shall be three (3), where appropriate.</i>

Criteria for Considering a Consent Application	Discussion
	The proposed severance application satisfies the general intent of the Official Plan regarding the division of land through a consent application.
2. The dimensions and shapes of the proposed lot	Although the dimensions of the proposed retained and severed lots are somewhat unusual, the new lots are purposefully designed to optimize site access and minimize traffic congestion by utilizing St. George Street as the main access point for the proposed mixed-use building. Overall, the proposed lot dimensions and shapes align with the intended objectives of the development, effectively accommodating the planned mixed-use project.
3. The adequacy of utilities and municipal services	The retained parcel and severed lots will have frontage on a municipal roadway and have access to municipal services and utilities. It is noted that a condition of approval of this consent application is that a Servicing Plan prepared by a qualified Engineer licensed in the Province of Ontario, be submitted to the satisfaction of the Manager of Development Engineering or his/her designate, as shown in Appendix A .

Regarding the minor variance application, Staff are generally supportive of the requested variances, recognizing their potential to facilitate the successful implementation of the proposed redevelopment. However, Planning staff echo the sentiment expressed by Economic Development Staff regarding the reduction in minimum ground floor height for the proposed commercial space and are concerned that approving this relief would; set an undesirable precedent, and lead to inconsistent street façades, and spaces that cannot accommodate a broad range of uses, as is the general intent of the zoning and designation. The applicant requested relief from the ground floor height for both the proposed mixed-use building and the existing medical building. Although staff are not supportive of this relief from the proposed mixed-use building, staff consider it an appropriate way to recognize the existing deficient medical clinic.

Since the subject lands consists of four separate parcels, a consolidation process is required to facilitate the proposed new lot creation. This matter will be address through the site plan control process. Staff also acknowledge the critical role of the parking agreement and access easements, and as such, have included them as conditions of approval. Staff are confident that subsequent details regarding site functionality, accessibility and overall urban design can be refined with the concurrent Site Plan Application.

With the exception of the requested relief from minimum ground floor height with respect to the proposed mixed-use building, staff are supportive of the joint minor variance and consent applications, and recommend partial approval.



Prepared by:
Lindsay King
Development Planner
Prepared on: February 29, 2024



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

Appendix A – Conditions Of Approval

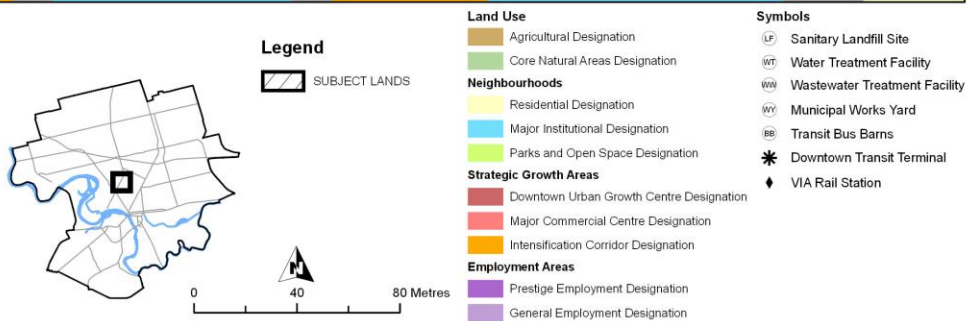
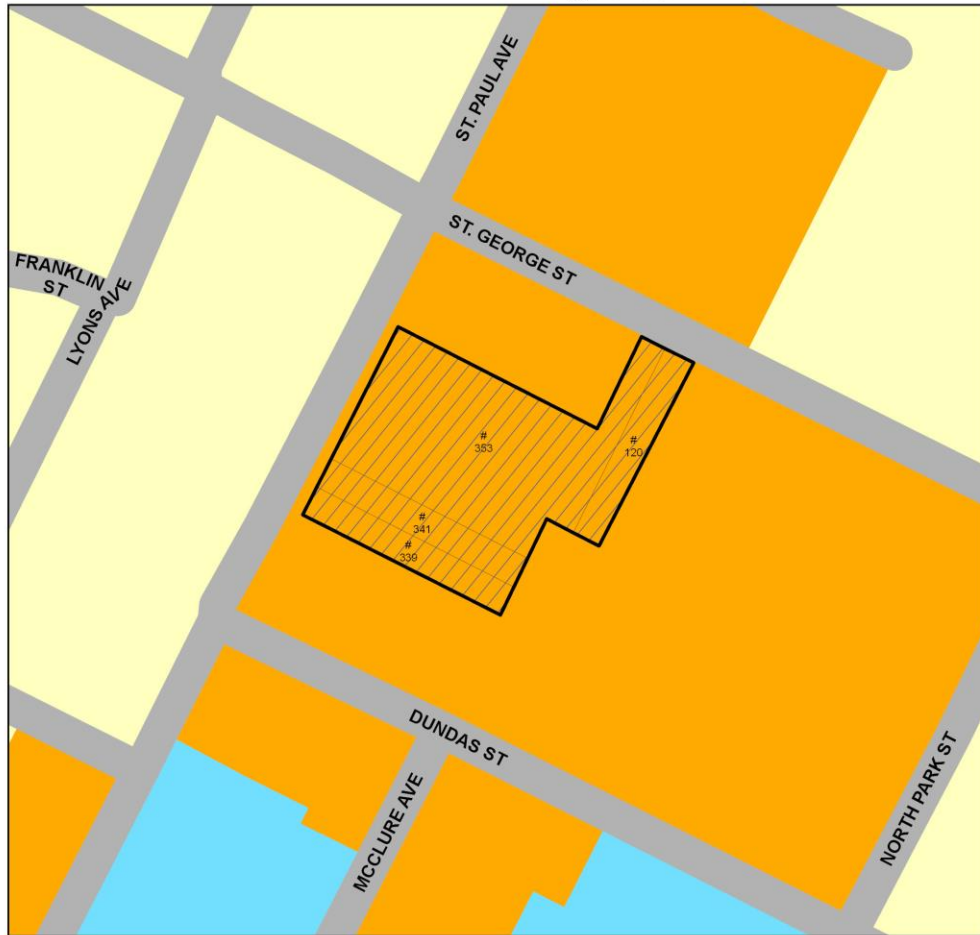
1. Receipt of a registered reference plan showing the severed and retained parcel and the proposed easements;
2. That the existing buildings on 339 St. Paul Avenue, 341 St. Paul Avenue, and 120 St. George Street be demolished or otherwise removed to the satisfaction of the Chief Building Official;
3. 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;
4. 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 required parking for the severed parcel;
5. 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;
6. 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;
7. 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;
8. 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;
9. Receipt of confirmation from the Manager of Development Engineering or their designate that a Wastewater Allocation Request Form has been submitted and approved;
10. 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;
11. Receipt of confirmation from the Manager of Development Engineering or their designate that a Water Connection Permit has been approved;

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12. 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;
 13. Receipt of confirmation from the Manager of Development Engineering or their designate, indicating that a Municipal Numbering Assignment Request has been processed;
 14. Receipt of confirmation that all taxes are paid up to date, to the satisfaction of the Manager of Development Planning;
 15. 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;
 16. Receipt of confirmation from the Building Department indicating that their requirements have been met, to the satisfaction of the Manager of Development Planning;
 17. Receipt of confirmation that elevation drawings and calculations are provided to the Chief Building Official verifying that the spatial separations requirements of the Ontario Building Code are meeting met relative to the severance line;
 18. Receipt of confirmation from the Manager of Development Engineering Department or their designate, indicating that their requirements have been met;
 19. That the above conditions be fulfilled and the Certificate of Consent be issued on or before **March 7, 2026**, after which time the consent will lapse.

Appendix B – Official Plan

OFFICIAL PLAN EXCERPT MAP

Application: B11-A10/2024
 339, 341, 353 St. Paul Avenue and 120 St. George Street



Appendix C – Zoning



ZONING

Application: B11-A10/2024

339, 341, 353 St. Paul Avenue and 120 St. George Street



Legend

-  Subject Land
-  Zone Boundary



0 50 100 Metres

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

- R1A RESIDENTIAL Type 1A (18 metre)
- R1C RESIDENTIAL Type 1C (12 metre)
- RC RESIDENTIAL CONVERSION
- R4B RESIDENTIAL MEDIUM DENSITY Type B
- RHD RESIDENTIAL HIGH DENSITY
- # Exception Number