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**Date** July 3, 2024 **Report No.** 2024-409  
**To** Chair and Members  
City of Brantford Committee of Adjustment  
**From** Dora Pripon  
Development Planner

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### 1.0 Type of Report

Committee of Adjustment Decision Regarding  
Application for Minor Variance

### 2.0 Topic

**Application No.** A26-2024  
**Agent** Antech Design and Engineering (c/o Candice Micucci)  
**Applicant/Owner** West Street Apartments Inc. (c/o Mike Hendrie)  
**Location** 352 – 354 West Street

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### 3.0 Recommendation

- A. THAT minor variance application A26-2024 seeking relief from Section 7.11.4.28.1.2 of Zoning By-law 160-90 to permit a minimum lot area of 40.8 m<sup>2</sup>/unit, whereas 43.5 m<sup>2</sup>/unit is otherwise required, BE APPROVED;
- B. THAT minor variance application A26-2024 seeking relief from Section 6.23.4.2 of Zoning By-law 160-90 to permit a driveway providing access to

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loading spaces with a minimum width of 6.0 m for two-way traffic, whereas a minimum of 7.0 m is otherwise required, BE APPROVED;

- C. THAT minor variance application A26-2024 seeking relief from Section 6.18.4.4 of Zoning By-law 160-90 to permit an overhead clearance for accessible parking spaces of 2.1 m, whereas 3.35 m is otherwise required, BE APPROVED;
- D. THAT minor variance application A26-2024 seeking relief from Section 6.14.1.1 of Zoning By-law 160-90 to permit a height exception of 7 m for roof-top equipment, whereas 5 m is otherwise permitted, BE APPROVED;
- E. THAT minor variance application A26-2024 seeking relief from Section 7.11.4.28.1.3.1 of Zoning By-law 160-90 to permit an interior side yard setback of 3.2 m, whereas 3.5 m is otherwise required, BE APPROVED;
- F. 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 of the subject lands; and,
- G. 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 2024-409.”*

#### 4.0 Purpose and Description of Application

A Minor Variance application has been received for the lands municipally addressed as 352 - 354 West Street. The purpose of this application is to facilitate the construction of two 7-storey multi-residential buildings. These properties were purchased under the same ownership and the title merged in 2020. The applicant received conditional approval of a consent application (File No. B16-2023) to sever the lot with the existing single-family dwelling and accessory structure at 352 West Street from 354 West Street, as shown in **Figure 3**. The applicant has until May 4, 2025, to satisfy all conditions of consent. In addition to this, a previous Zoning By-law amendment application was approved for the subject lands in 2021 (File No. PZ-17-21) and conditional approval has been granted for a previously submitted site plan application in 2023 (File No. SPC-06-23). Further information regarding these applications is provided in Section 7 of this Report. A condition of site plan approval is that the proposed development must comply with the Zoning By-law. The applicant

applied for a previous Minor Variance application in 2023 (A17-2023) and was granted relief to permit an accessory structure to be 0.4 m from the interior lot line, whereas an accessory structure is required to be at least 0.6 m from the interior lot line. This variance is still in force and effect today. Since then, changes have been made to the site and the applicant has now applied for another Minor Variance application to address some zoning deficiencies identified through the site plan control process and is seeking relief from the provisions shown in **Table 1**.

**Table 1 - Minor Variance Relief Requested**

<b>Regulation</b>	<b>By-law Section</b>	<b>Required</b>	<b>Proposed</b>	<b>Relief Requested</b>
Lot Area (Minimum)	Section 7.11.4.28.1.2	43.5 m <sup>2</sup> / unit	40.8 m <sup>2</sup> / unit	- 2.7 m <sup>2</sup> per unit
Driveway Width accessing loading space (Minimum)	Section 6.23.4.2	7 m	6 m	- 1 m
Overhead Clearance for Accessible parking spaces (Minimum)	Section 6.18.4.4	3.35 m	2.1 m	- 1.25 m
Height Exception (for roof-top equipment)	Section 6.14.1.1	5 m	7 m	+ 2 m
Interior Side Yard setback (Minimum)	Section 7.11.4.28.1.3.1	3.5 m	3.2 m	- 0.3 m

Figure 1 - Conceptual Site Plan

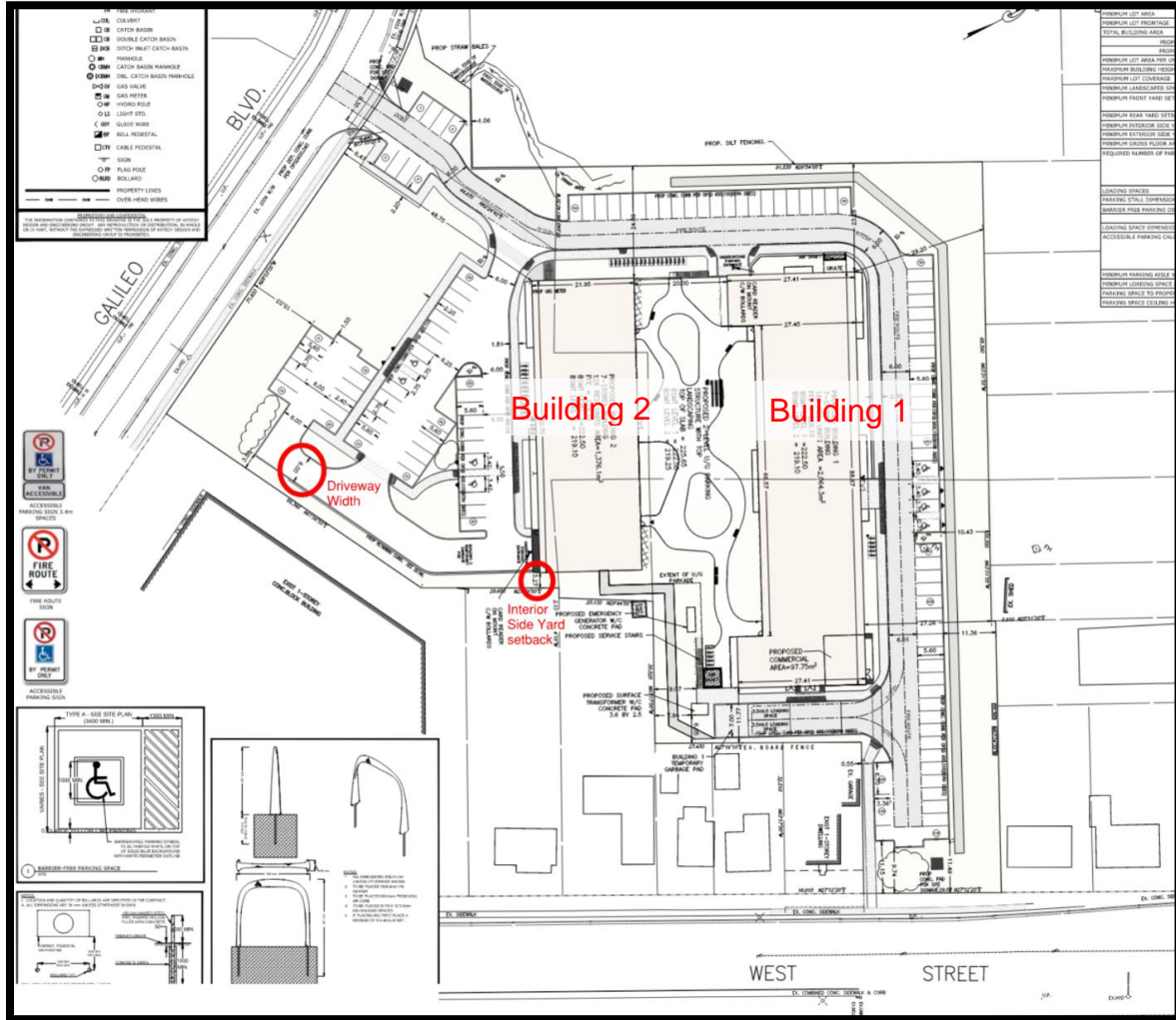


Figure 2 - Elevation (showing roofing equipment)



## 5.0 Site Features

The subject lands are an irregular shape and have an area of approximately 1.83 hectares (4.52 acres) with approximately +/-46.4 m of frontage along West Street and approximately +/- 71.9 m along Galileo Boulevard. The subject lands are located north of Galileo Boulevard, south of Charing Cross Street, west of West Street and east of Sydenham Street. The property currently contains an existing vacant garage that will be used as a construction office/storage and will eventually be demolished prior to the completion of the development. The property also contains a single detached dwelling and detached garage which, will be severed once the applicant satisfies all conditions of consent for application B16-2023. The following is a description of the land use surrounding the subject lands.

- |              |  |
|--------------|--|
| <b>North</b> | Single detached dwellings                      |
| <b>South</b> | Single detached dwellings and Commercial Plaza |
| <b>East</b>  | Single detached dwelling                       |
| <b>West</b>  | Open Space (zoned H-R4A)                       |

Figure 3 - Photo of Subject Lands (view from West St)



Figure 4 - Photo of subject lands (view from Galileo Blvd)



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## 6.0 Input from Other Sources

### 6.1 Technical Comments

This application was circulated to all applicable departments and agencies on March 19, 2024. The following is a brief summary of notable comments.

**Development Engineering** staff have requested an updated grading plan, including a cross-section at the location highlighted in the snip below, to demonstrate the proposed grading scheme (retaining wall and swale) can be accommodated in the requested setback relief. The applicant provided an updated cross-section drawing and grading plan, and staff will have the opportunity to assess further through the applicable Site Plan Control process.

**Transportation** Staff note that they can support a driveway width of 6.0 m for accessing loading spaces as this meets the requirements of a fire route. Transportation staff can also support an overhead clearance for accessible parking spaces of 2.1 m, whereas 3.35 m is otherwise required, since Brantford Lift Vehicles will not utilize this area of the site for service delivery.

**Accessibility** Staff note that relief from the height requirement of accessible parking is currently left to the discretion of the planner on file. The Zoning By-law requires a clearance height of 3.35 m whereas the proposed development has a clearance height of 2.1 m. Planning staff note that the City's Zoning By-law requirements are far higher than the Ontario Building Code which only requires a 2.1 m clearance height. Therefore, Planning staff can support this relief. More information regarding this topic is provided in **Table 2** below.

**Grand Erie District School Board** notes the subject lands are within the school boundary for Grandview Public School (JK-8) and North Park Collegiate & Vocational School (9-12). This project is within the walking radius of a number of GEDSB school facilities. We are concerned that the construction of this project may impact safe pedestrian walking routes to school for our students. We ask that the developer ensure that notice of any street/sidewalk closures, construction hoarding, or other activity impacting access to existing transportation infrastructure be provided to the GEDSB and Student Transportation Services of Brant Haldimand and

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Norfolk (STSBHN). This comment can be addressed at the Site Plan Control phase.

## 6.2 Public Response

A Notice of Public Hearing was issued by personal mail on June 21, 2024 to property owners (45 Notices) within 60 metres of the subject lands pursuant to the *Planning Act*. No public comments were received at the writing of this Report.

## 7.0 Planning Staff Comments and Conclusion

### 7.1 Minor Variance Planning Analysis

The subject lands are designed “Intensification Corridor” in the Official Plan and zoned “Residential High Density - Exception 28 Zone (RHD-28)” in the Zoning By-law 160-90, shown in **Appendix A** and **Appendix B** respectively.

The previous Zoning By-law amendment (PZ-17-21) rezoned the lands from “Residential Type 1B Zone (R1B)”, “Residential Type 1B (15 Metre) – Exception 1 Zone (R1B-1)” and “Holding - Residential Medium Density Type A Zone (H-R4A)” to “Residential High Density – Exception 28 Zone (RHD-28)”. Through this zoning amendment, site-specific provisions were added for a reduced lot area per unit, lot width, rear yard setback, interior side yard setback, exterior side yard setback as well as a reduced number of required parking spaces. These amendments were approved in 2022 and since then the applicant has made minor adjustments to their site plan. As a result, further relief is needed from the Zoning By-law.

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.



Table 2 - Minor Variance tests – Lot Area, Interior Side Yard Setback and Height

Four Tests	Discussion
<p>1. That the requested variance is <b>minor</b> in nature</p>	<p>The proposed development requires relief for a reduction in lot area, a reduction to the interior side yard setback and an increase to the height exception for roof-top equipment, as shown in <b>Table 1</b>. It is noted that these requested variances represent a slight reduction of what was previously approved through the re-zoning application. As such, the applicant already provided evidence that these deviations from the Zoning By-law will pose no major adverse impacts on the surrounding area. For example, the re-zoning application proposed to amend the maximum height to 7-storeys (3.5 m each for a total of 24.5 m). To support this request, the applicant submitted an angular plane analysis as part of the submission materials for the re-zoning in order to analyze the impacts of taller buildings adjacent to low-rise dwellings and private amenity space. Portions of the upper floors of Building 2 will project into the rear yards of two residential properties, as shown in <b>Figure 1</b>. However, Planning Staff notes that a number of mature trees currently exist on the abutting properties, which will help to maintain privacy. The By-law also permits a height exception up to 5 m for roof-top equipment. This application does not seek to exceed the 7-storey height requirement established during the re-zoning but rather to permit 7 m for roof-top equipment on top of the buildings, whereas the permitted height exception is 5 m. According to the applicant, the reasoning behind this is that the elevator manufacturer requiring a minimum of 5.5 m clearance above the top level of the elevator shaft. This is in addition to the roof and parapets above the elevator shaft. Therefore, a total of 7 m is needed for all the roof-top equipment.</p> <p>Additionally, as part of the Zoning Amendment application, the applicant provided a shadow study for the proposed 7-storey height. The submitted analysis determined that the proposed development will only have 1-hour shadow impact on private outdoor amenity space and building faces on June 21 and March 21, which meets the objectives of the City’s Site Plan Manual guidelines. Therefore, the requested relief for lot area, interior side yard, and height is not anticipated to have negative impacts on the surrounding area. Staff is of the opinion the relief sought in this application is minor in nature.</p>

Four Tests	Discussion
<p>2. That the intent and purpose of the <b>Zoning By-law 160-90</b> is maintained</p>	<p>The intent for the requirements for minimum lot area, interior side yard setback and maximum height is included in the Zoning By-law to ensure that developments are able to accommodate appropriate building sizes and to prevent properties from being overdeveloped. The requested reductions to lot area and interior side yard as well as the slight increase in height will permit an increase in density on-site but will still maintain the minimum zoning requirements for provisions such as maximum lot coverage and minimum landscaped open space. As such, is Planning Staff’s opinion that the proposed variance would maintain the general intent of the Zoning By-law.</p>
<p>3. That the general intent and purpose of the <b>Official Plan</b> is maintained</p>	<p>The subject lands are designated “Intensification Corridor” and within the Strategic Growth Area within the Official Plan, as shown in <b>Appendix A</b>. The Intensification Corridor designation permits a variety of uses, including residential, and intends to foster intensified densities within the City. The variances would facilitate the construction of two 7-storey apartment buildings with 97.75 m<sup>2</sup> of commercial space. This is intensified built form, as encouraged in the Official Plan. Therefore, 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 <b>desirable</b> 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 facilitate the creation of two multi-residential buildings, creating a total of 316 residential units. The subject lands are in an intensification corridor and zoned for high density. Therefore, this development is appropriate and desirable for these lands.</p>

Table 3 - Minor Variance tests – Driveway Width and Overhead Clearance for Accessible Parking Spaces

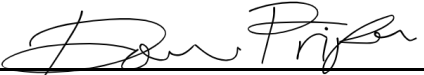
Four Tests	Discussion
<p>1. That the requested variance is <b>minor</b> in nature</p>	<p>The requested relief for driveway width for loading spaces and the relief for clearance for accessible parking spaces is not expected to cause adverse impacts on the development or nearby properties.</p> <p>The requirement is that the driveway providing access to a loading space must have a minimum width of 3.5 m for one-way traffic and 7.0 m for two-way traffic. As noted</p>

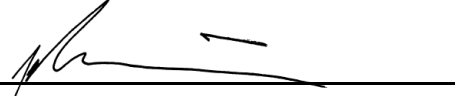
Four Tests	Discussion
	<p>above, City Transportation staff note that they can support a Driveway width to loading spaces of 6 m, as this meets the requirements of a fire route.</p> <p>Additionally, Transportation staff can also support an overhead clearance for accessible parking spaces of 2.1 m, whereas 3.35 m is otherwise required, since Brantford Lift Vehicles will not utilize this area of the site for service delivery. The requested relief is specifically for the accessible parking stalls in the underground parking, not the accessible parking stalls in the above-ground parking. Seven (7) of the required fifteen (15) accessible parking stalls are in the underground parking. As mentioned above, the proposed height of 2.1 m still meets the requirements for height clearance in the Ontario Building Code and will accommodate the height of standard vehicles, just not tall vehicles. The applicant has confirmed that these accessible parking stalls will be assigned to specific tenants. The above-grade accessible parking stalls will be used for accessible pickup and drop-off, and for vehicles too tall to use the underground parking spaces.</p> <p>For these reasons, Planning Staff are of the opinion that the requested relief is minor in nature.</p>
<p>2. That the intent and purpose of the <b>Zoning By-law 160-90</b> is maintained</p>	<p>The intent of the requirement for driveway width and overhead clearance is to ensure that a proposed development allows for adequate access to loading spaces and accessible parking spaces. As discussed above, City Staff believe adequate access to loading spaces and accessible spaces can be maintained in this development. Therefore, Planning Staff believe the requested relief maintains the intent of the Zoning By-law.</p>
<p>3. That the general intent and purpose of the <b>Official Plan</b> is maintained</p>	<p>The subject lands are designated “Intensification Corridor” and within the Strategic Growth Area within the Official Plan, as shown in Appendix A. The Intensification Corridor designation permits a variety of uses, including residential, and intends to foster intensified densities within the City. The variances would facilitate the construction of two 7-storey apartment buildings with 97.75 m<sup>2</sup> of commercial space. This is intensified built form, as encouraged in the Official Plan. Therefore, it is the opinion of Staff that the proposed variance would maintain the general intent and purpose of the Official Plan.</p>

Four Tests	Discussion
4. That the variance is <b>desirable</b> for the appropriate development and use of the land, building or structure	It is the opinion of Staff that the proposal is desirable as it would facilitate the creation of two multi-residential buildings, creating a total of 316 residential units. The subject lands are in an intensification corridor and zoned for high density. Therefore, this development is appropriate and desirable for these lands.

## 7.2 Conclusion

A site inspection was completed on June 19, 2024. Upon completion of this visit and review of the applicable policies, Planning Staff are supportive of the application. The proposed application will intensify an underutilized site and would facilitate the creation of two multi-residential buildings, adding a total of 316 residential units to the City's housing stock. For these reasons and the ones mentioned above, the minor variance satisfies the criteria of Section 45(1) of the *Planning Act*, and Staff recommends that application A26-2024 be approved.

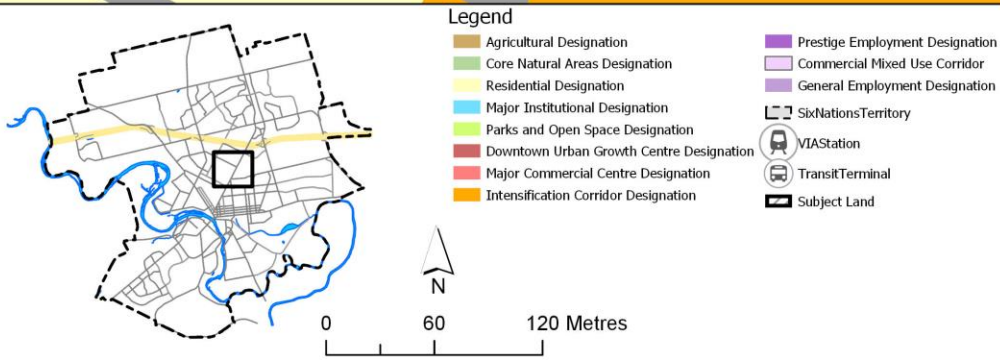
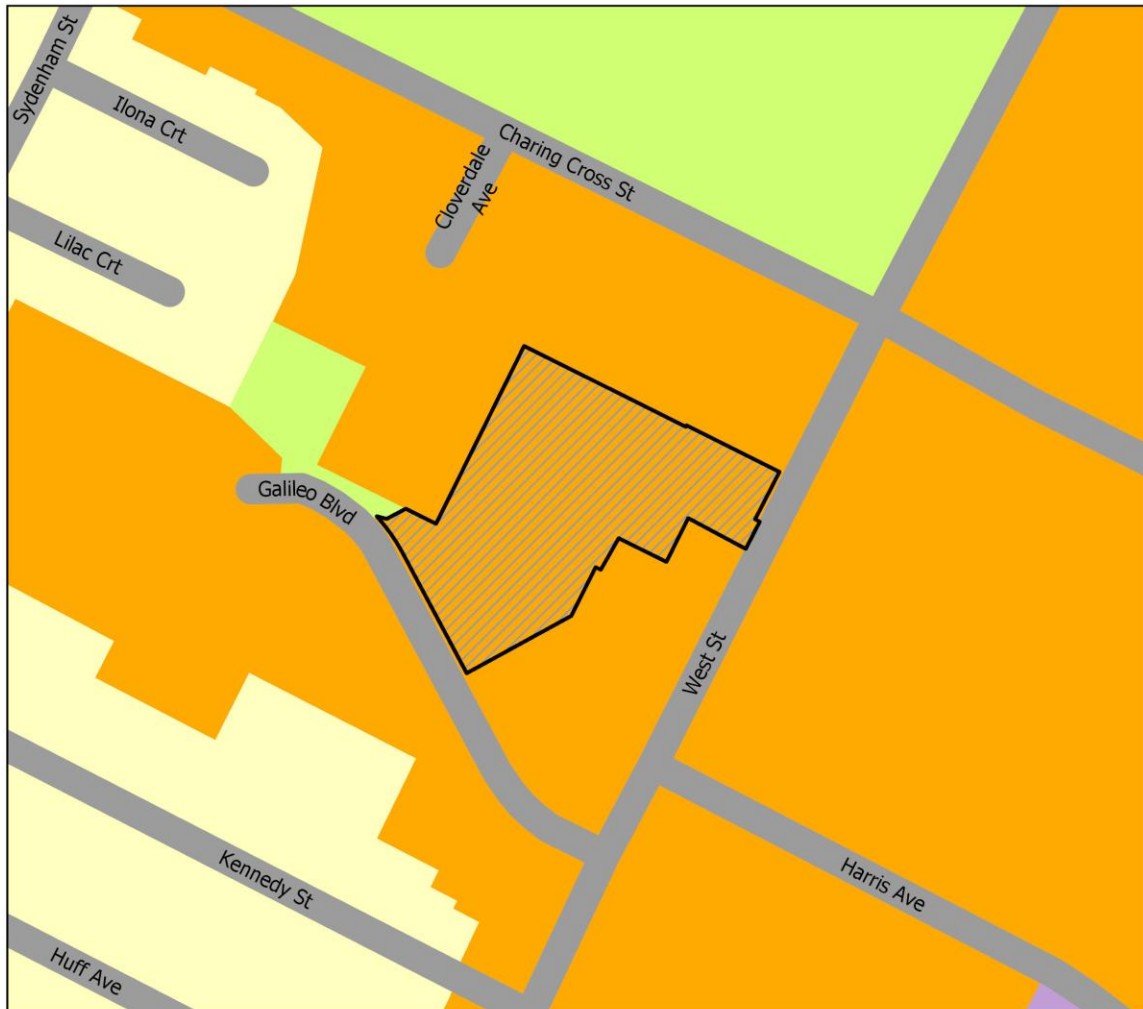
  
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Dora Pripon, Development Planner  
Prepared on: June 27, 2024

  
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Reviewed By: Jeff Medeiros, MCIP RPP,  
Senior Project Manager, Development  
Planning

## Appendix A – Official Plan

### OFFICIAL PLAN EXCERPT MAP

Application: A26-2024  
352 - 354 West Street



**Appendix B – Zoning By-law**

**ZONING MAP**

Application: A26-2024  
 352 - 354 West Street



**Zoning**  
 // Subject Land  
 □ Zoning

**ZONING (Bylaw 160-90) and County of Brant(61-18)**

- R1B Residential Type 1B (15 metre)
- R1C Residential Type 1C (12 metre)
- R2 Residential Type
- RC Residential Conversion
- R4A Residential Medium Density Type A
- RHD Residential High Density
- I2 Institutional School
- C8 General Commercial
- C9 Neighborhood Centre Commercial
- OS1 Open Space Type 1
- OS2 Open Space Cemetery
- # Exception Number

