



Alternative formats and communication supports available upon request. Please contact accessibility@brantford.ca or 519-759-4150 for assistance.

**Date** July 3, 2024 **Report No.** 2024-407  
**To** Chair and Members  
City of Brantford Committee of Adjustment  
**From** Dora Pripon  
Development Planner

---

### 1.0 Type of Report

Committee of Adjustment Decision Regarding [ ]  
Applications for Consent [X]

### 2.0 Topic

**Application No.** B24-2024 & B25-2024  
**Agent/Applicant/Owner** Michael Hurley  
**Location** 103 Usher Street

---

### 3.0 Recommendation

- A. THAT Consent application B24-2024 requesting to sever the subject lands municipally addressed as 103A Usher Street, BE APPROVED subject to the Conditions of Consent, attached to Report 2024-407 as Appendix A;
- B. THAT the reason(s) for approval of B24-2024 are as follows: having regard for the matters under Section 51 (24) of the Planning Act, Staff is satisfied that the proposed consent application is desirable and compatible with the surrounding area and will not result in adverse impacts on surrounding properties;

- C. THAT Consent application B25-2024 requesting to sever the subject lands municipally addressed as 103C Usher Street, BE APPROVED subject to the Conditions of Consent, attached to Report 2024-407 as Appendix B;
- D. THAT the reason(s) for approval of B25-2024 are as follows: having regard for the matters under Section 51 (24) of the Planning Act, Staff is satisfied that the proposed consent application is desirable and compatible with the surrounding area and will not result in adverse impacts on surrounding properties; and,
- E. 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. 2024-407.”*

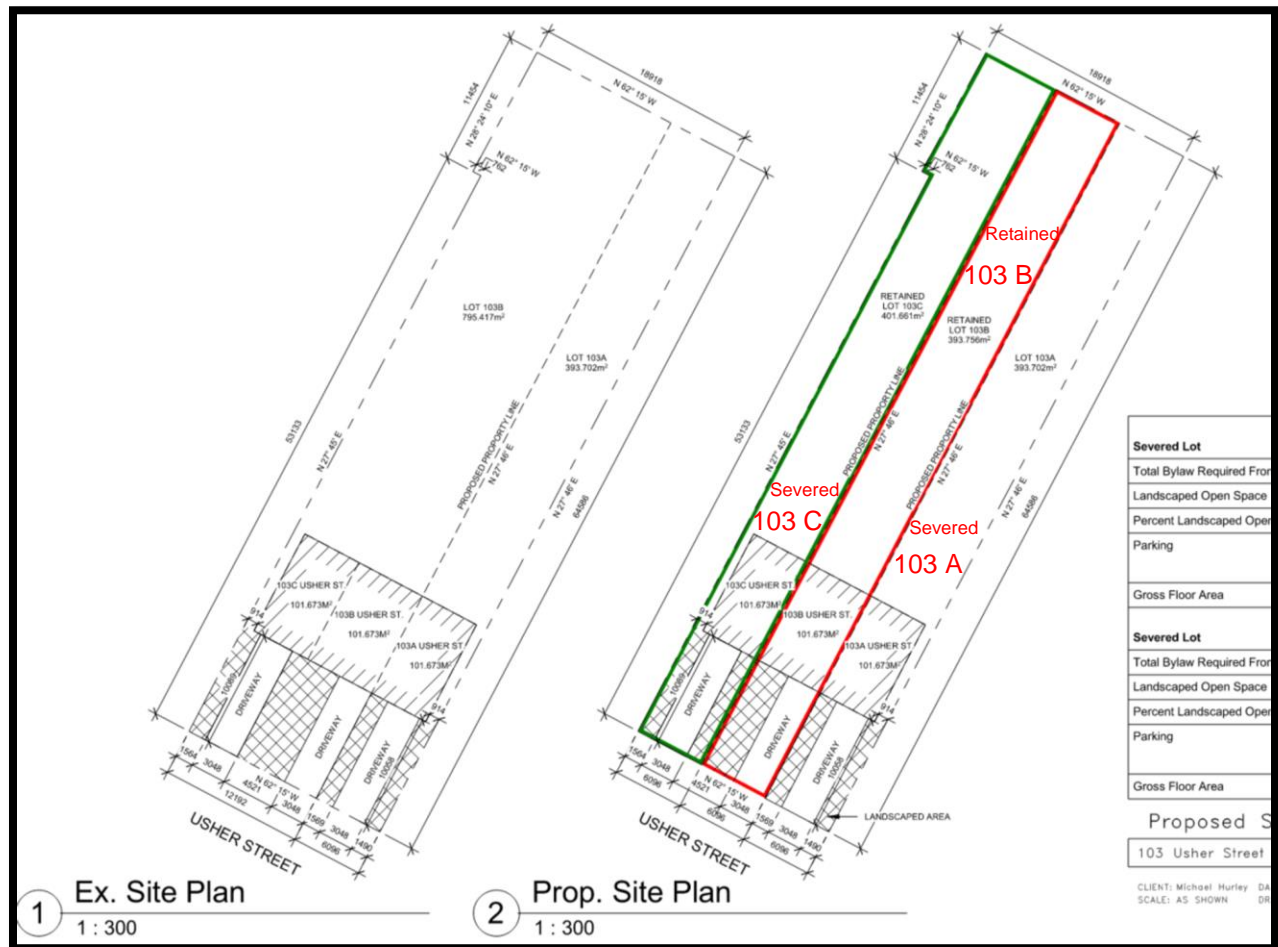
#### 4.0 Purpose and Description of Applications

Consent applications have been received for 103 Usher Street. The purpose of the consent applications is to sever the subject lands into 3 separate parcels of land. The subject lands have an existing 3-unit street townhouse dwelling, which is proposed to remain and be separated into 3 individual units so that each unit will be located on their individual property. An access and maintenance easement will be needed in favour of the proposed middle lot (103B Usher St) Staff are recommending a condition to address this requirement as shown in **Appendix A**. The proposed severances satisfy the requirements of the Zoning By-law for lot area and lot width, as shown in **Table 1**.

Table 1 - Lot Dimensions

	Required (for street townhouse in RC Zone)	Severed (103A Usher St) (B24-2024)	Retained (103B Usher St)	Severed (103C Usher St) (B25-2024)
<b>Lot Area</b> (minimum)	230 m <sup>2</sup> /unit	392.7 m <sup>2</sup> (Complies)	393.76 m <sup>2</sup> (Complies)	401.66 m <sup>2</sup> (Complies)
<b>Lot Width</b> (minimum)	6 m/unit	6 m (Complies)	6 m (Complies)	6 m (Complies)

Figure 1 - Severance Sketch



## 5.0 Site Features

The subject lands are located north of Usher Street, south of Terrace Hill Street, east of Broad Street and west of Wynarden Court. The following is a description of the land use surrounding the subject lands.

- North**      Single detached dwellings
- South**     CN Rail Yard
- East**       Street townhouse dwellings
- West**       Semi-detached dwelling

Figure 2 - Photo of Subject Lands



## 6.0 Input from Other Sources

### 6.1 Technical Comments

This application was circulated to all applicable departments and agencies on May 17, 2024. The notable comments are summarized below.

**CN Rail** noted that the development of sensitive uses in proximity to railway operations cultivates an environment in which land use incompatibility issues are exacerbated. CN encourages the municipality to pursue the implementation of the following criteria as conditions of approval:

That the following clause should be inserted on land title, in all development agreements, offers to purchase, and agreements of

---

---

Purchase and Sale or Lease of each dwelling unit within 1000m of the railway right-of-way:

“Warning: Canadian National Railway Company or its assigns or successors in interest has or have a right-of-way within 1000 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.”

This comment has been captured as a condition of consent in **Appendix A**.

## 6.2 Public Comment

A Notice of Public Hearing was issued by personal mail on June 19, 2024 (40 notices) to property owners within 60 metres of the subject lands pursuant to the *Planning Act*. No public comments were received at the time of writing this Report.

## 7.0 Planning Staff Comments and Conclusion

### 7.1 Consent Application

The subject lands are designated “Residential” in the Official Plan and zoned “Residential Conversion (RC)” in Zoning By-law 160-90, as shown in **Appendix C** and **Appendix D**, respectively.

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, as summarized in the table below.

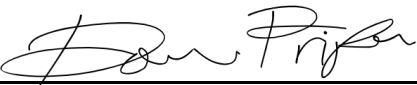
**Table 2 - Criteria for Considering a Consent Application**


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> <p style="padding-left: 40px;"><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></p> <p style="padding-left: 40px;"><i>h) The maximum number of new lots approved by the City on one property through Consent shall be three (3), where appropriate. New lots shall have frontage on a municipal road and shall not require that municipal services be extended.</i></p> <p>In this case, a Plan of Subdivision is deemed unnecessary, and the number of new lots created through this consent application is 3. Municipal services are available and will not have to be extended.</p> <p>The proposed severance application satisfies the general intent of the Official Plan regarding the division of land through a consent application.</p>
<p>2. The dimensions and shapes of the proposed lot</p>	<p>The lot width and lot area of the retained lot and severed lots meet the requirements in the Zoning By-law, as shown in <b>Table 1</b>. Staff has no other concerns pertaining to the shape and dimensions of the retained and severed lots.</p>
<p>3. The adequacy of utilities and municipal services</p>	<p>The parcels to be retained and severed all currently have frontage on a municipal roadway and access to municipal services and utilities. As a result of the severance, the individual units will be required to have separate servicing. A Condition of Consent for both Consent applications, as shown in <b>Appendix A</b> and <b>Appendix B</b> respectively, is that the applicant shall provide a Servicing Plan prepared by a qualified Engineer licensed in the Province of Ontario, to the satisfaction of the Manager of Development Engineering or his/her designate. The Servicing Plan shall indicate that the severed and retained parcels have been independently serviced with a sanitary and storm sewer connection to a legal outlet and that these services do not cross the proposed severance line(s) and</p>

Criteria for Considering a Consent Application	Discussion
	are connected directly to City infrastructure. Planning Staff have no other concerns regarding the adequate servicing of the proposed severed parcels.

## 7.2 Conclusion

A site inspection was completed on June 20, 2024. Upon completion of this visit and review of all applicable policies, Staff is supportive of the requested severances regarding files B24-2024 and B25-2024 subject to the conditions in **Appendix A** and **Appendix B**. The application would facilitate the severance of an existing street townhouse for separate ownership and would cause no adverse impacts on the surrounding area. For the reasons discussed above, the consent applications satisfy Section 51(24) of the Planning Act, and Staff recommends approval.

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

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

---

---

**APPENDIX A – CONDITIONS OF CONSENT (B24-2024)**

1. Receipt of a registered reference plan showing the severed and retained parcels and an easement for access, to the satisfaction of the Manager of Development Planning or their designate.
2. 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 or their designate.
3. Receipt of confirmation that all taxes are paid up to date, to the satisfaction of the Manager of Development Planning or their designate.
4. Receipt of payment for cash-in-lieu of parkland (*amount to be determined in accordance with City of Brantford By-law 139-2022*).
5. Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that the deposited reference plan showing the severed and retained parcels of land has been received.
6. Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that a Wastewater Allocation Request Form has been submitted and approved.
7. Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that a Municipal Numbering Assignment Request Form to assign a municipal address number to the severed and/or retained parcel(s) has been submitted.
8. The Owner/Applicant shall provide a Servicing Plan prepared by a qualified Engineer licensed in the Province of Ontario, to the satisfaction of the Manager of Development Engineering or his/her designate. The Servicing Plan shall indicate that the severed and retained parcels have been independently serviced with a sanitary and storm sewer connection to a legal outlet and that these services do not cross the proposed severance line(s) and are connected directly to City infrastructure.
9. The Owner/Applicant shall be responsible, financial and otherwise, to provide sanitary and storm sewer connections to a legal outlet for 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 his/her designate.



- 
10. The Owner/Applicant shall provide a Grading and Drainage Plan prepared by a qualified Engineer licensed in the Province of Ontario, to the satisfaction of the Manager of Development Engineering or his/her designate.
  11. The Owner will be required to obtain a Water Service Connection Permit for each new service and pay all applicable fees prior to commencing any work to connect the new water service; the City will complete the inspection of all connections to City watermains.
  12. Receipt of confirmation from the Environmental Services Department indicating that their requirements have been satisfied.
  13. 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.
  14. Receipt of confirmation that a warning clause in favour of CN rail, to the satisfaction of the Manager of Development Planning or their designate, is inserted on land title, in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 1000m of the railway right-of-way.
  15. That the above conditions are fulfilled and the Certificate of Consent be issued on or before **July 3, 2026**, after which time the consent will lapse.

---

---

## **Appendix B – Conditions of Consent (B25-2024)**

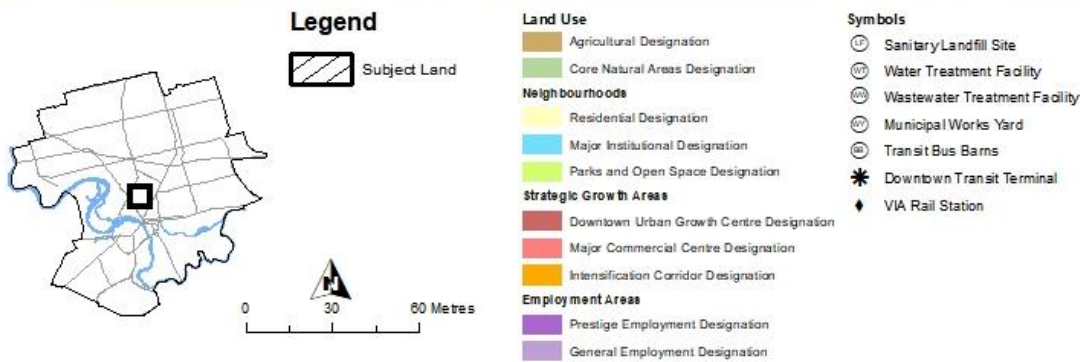
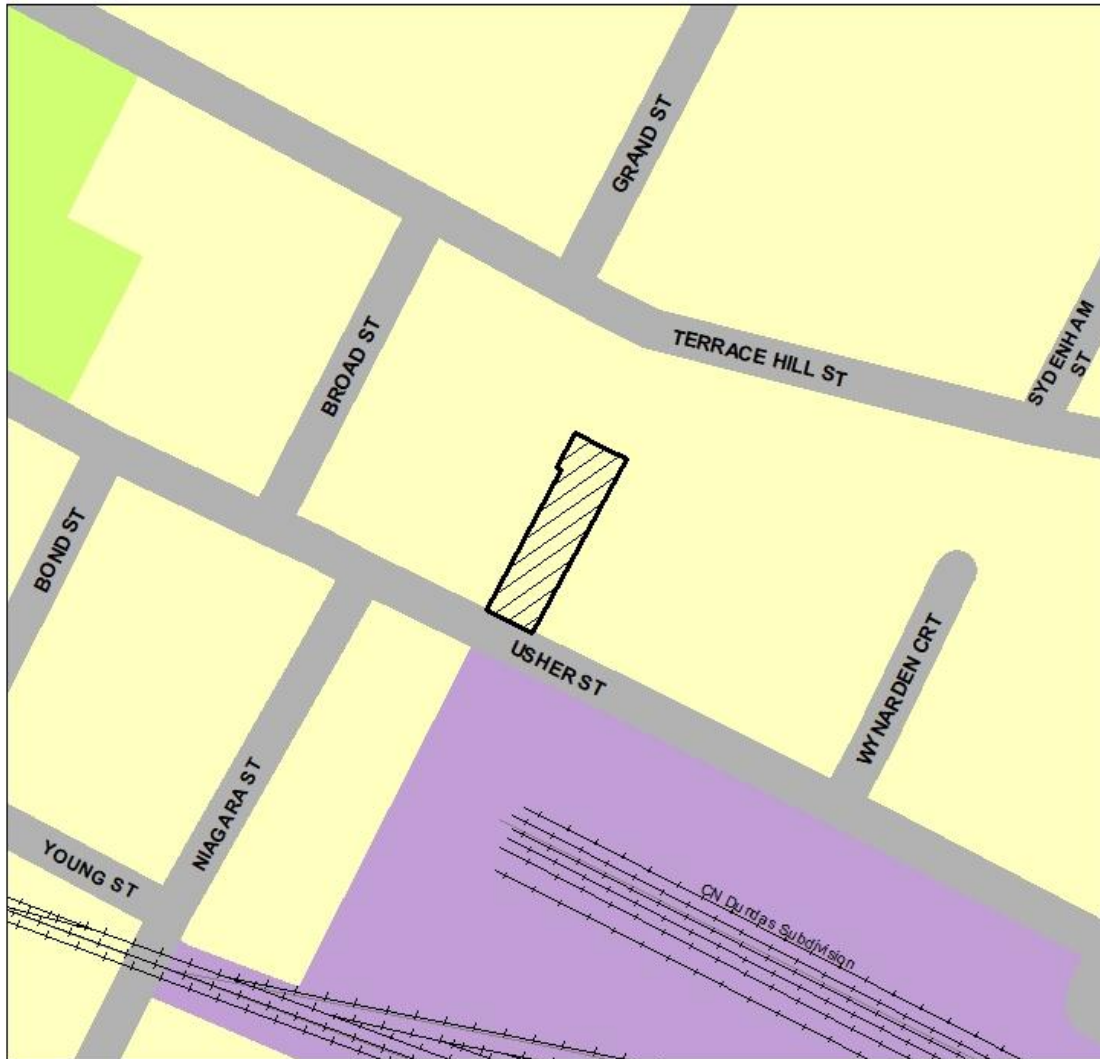
1. Receipt of a registered reference plan showing the severed and retained parcels and an easement for access, to the satisfaction of the Manager of Development Planning or their designate.
2. Receipt of a draft of the Transfer deed for review (upon registration a final copy of the transfer deed shall be provided to the City), to the satisfaction of the Manager of Development Planning or their designate.
3. Receipt of confirmation that all taxes are paid up to date, to the satisfaction of the Manager of Development Planning or their designate.
4. Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that the deposited reference plan showing the severed and retained parcels of land has been received.
5. Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that a Wastewater Allocation Request Form has been submitted and approved.
6. Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that a Municipal Numbering Assignment Request Form to assign a municipal address number to the severed and/or retained parcel(s) has been submitted.
7. The Owner/Applicant shall provide a Servicing Plan prepared by a qualified Engineer licensed in the Province of Ontario, to the satisfaction of the Manager of Development Engineering or his/her designate. The Servicing Plan shall indicate that the severed and retained parcels have been independently serviced with a sanitary and storm sewer connection to a legal outlet and that these services do not cross the proposed severance line(s) and are connected directly to City infrastructure.
8. The Owner/Applicant shall be responsible, financial and otherwise, to provide sanitary and storm sewer connections to a legal outlet for 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 his/her designate.
9. The Owner/Applicant shall provide a Grading and Drainage Plan prepared by a qualified Engineer licensed in the Province of Ontario, to the satisfaction of the Manager of Development Engineering or his/her designate.

- 
10. The Owner will be required to obtain a Water Service Connection Permit for each new service and pay all applicable fees prior to commencing any work to connect the new water service; the City will complete the inspection of all connections to City watermains.
  11. Receipt of confirmation from the Environmental Services Department indicating that their requirements have been satisfied.
  12. 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.
  13. That the above conditions are fulfilled and the Certificate of Consent be issued on or before **July 3, 2026**, after which time the consent will lapse.

**Appendix C – Official Plan**

**OFFICIAL PLAN EXCERPT MAP**

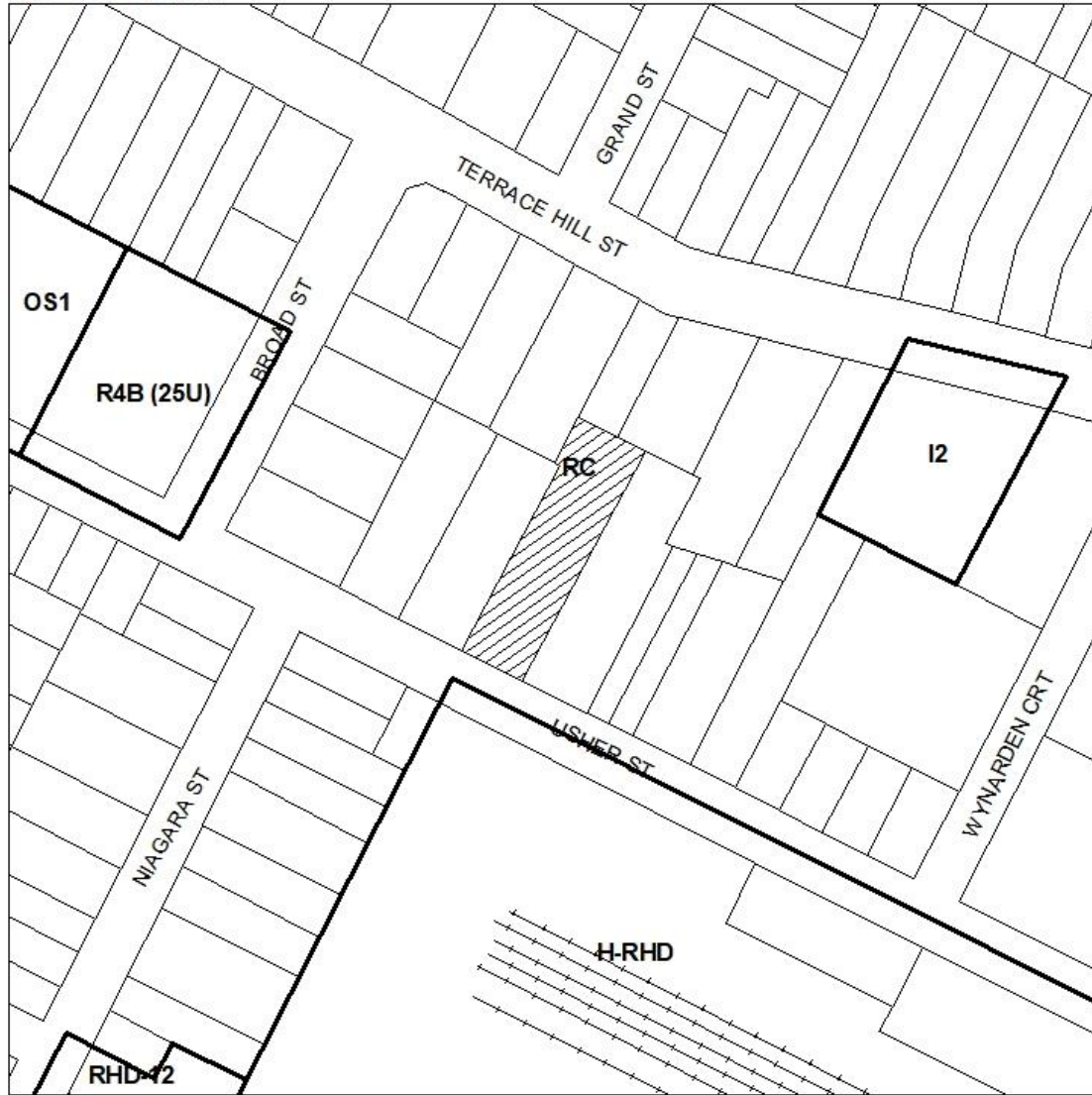
Application: B24-2024 & B25-2024  
 103 Usher Street





**Appendix D – Zoning By-law**

**ZONING**

Application: B24-2024 & B25-2024  
103 Usher Street



**Legend**

-  Subject Land
-  Zone Boundary



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

- RC Residential Conversion
- R4B Residential Medium Density Type B
- RHD Residential High Density
- I2 Institutional School
- OS1 Open Space Type 1
- H Holding Provision
- # Exception Number