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**Date** December 16, 2024 **Report No.** 2024-689  
**To** Chair and Members  
City of Brantford Committee of Adjustment  
**From** Ashley Timbs  
Development Planner

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### 1.0 Type of Report

Application(s) for Consent and/or Minor Variance []  
Item for Consideration or Consent []

**2.0 Topic** **Application B41-2024 and A57-2024 – 13 Burwell Street**

**Agent – J.H Cohoon Engineering c/o Bob Phillips**

**Applicant/Owner – Andrew Ozga**

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### 3.0 Recommendation

- A. THAT minor variance application A57-2024 seeking relief from Section 6.3.1.1 of Zoning By-law 160-90 to permit a maximum accessory building/structure lot coverage of 20.5%, whereas 10% is otherwise required, BE APPROVED;
- B. THAT minor variance application A57-2024 seeking relief from Section 7.3.2.1.3 of Zoning By-law 160-90 to permit a maximum lot coverage of 39.6% for the retained parcel, whereas 35% is otherwise required, BE APPROVED;
- C. THAT minor variance application A57-2024 seeking relief from section 7.3.2.1.6 to permit a minimum rear yard of 1.25 m for the severed parcel,

whereas 7.5 m is otherwise required, BE APPROVED, conditional upon a minimum westerly interior side yard of 7.5 m being provided;

- D. THAT the reasons for the approval of the minor variance application are as follows: the proposed variance application 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 of the subject lands; and,
- E. THAT consent application B41-2024 to sever a parcel of land from 13 Burwell Street, having a frontage of 21.2 m and a lot area of 721.0 m<sup>2</sup>, and to retain a parcel of land having a frontage of 17.3 m and a lot area of 640.0 m<sup>2</sup>, BE APPROVED, subject to the conditions listed in **Appendix A** of Report No. 2024-689;
- F. THAT the reasons for approval of the consent application are as follows: the proposed consent has regard for the matters under Section 51(24) of the *Planning Act* and 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; and,
- G. THAT pursuant to 45(8) – (8.2) and Sections 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 5.2 of Report No. 2024-689”.*

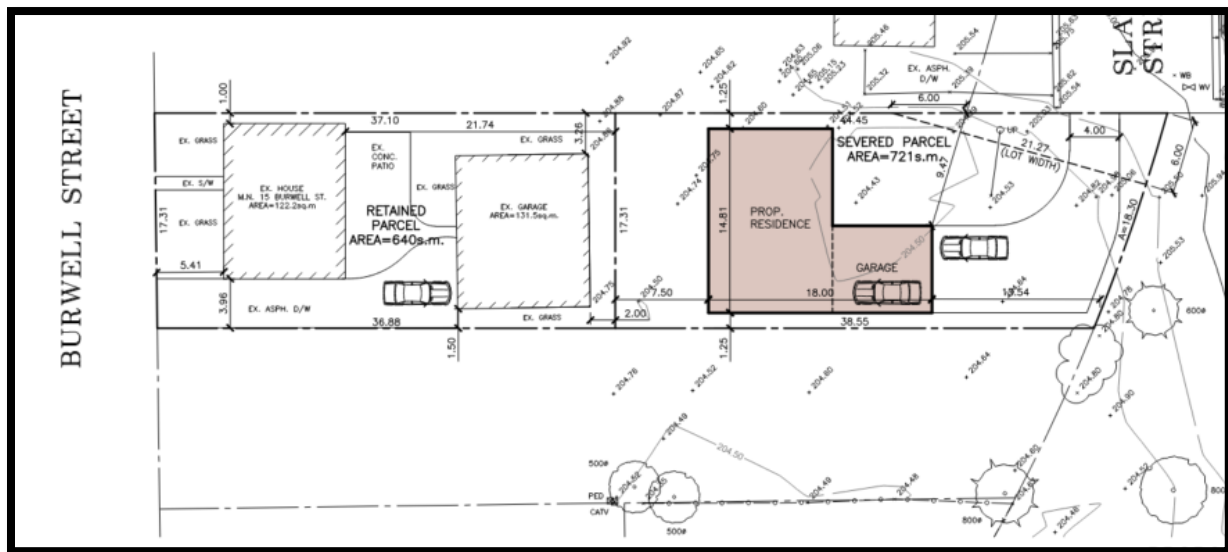
#### 4.0 Purpose and Description of Application(s)

Table 1 - Description of Application(s)

Application Details	
Type of Application	Consent and Minor Variance
Purpose of Application	To sever the subject lands to create a new parcel to facilitate the construction of a single detached dwelling. As a result, the applicant is seeking relief for lot coverage, accessory lot coverage and rear yard setback, as shown in <b>Figure 1</b> .  The requested relief from Zoning By-law 160-90 is detailed in <b>Table 3</b> .

Additional Relevant Information	
Previous Applications	N/A
Concurrent Planning Applications	N/A

Figure 1 – Site Plan / Severance Sketch



(see Attachment for larger resolution)

Table 2 - Lot Dimensions for Severance

Regulation	By-law 160-90 Section	Required	Retained Lot	Severed Lot
<b>Lot Area (minimum)</b>	Section 7.3.2.1.1	450.0 m <sup>2</sup>	640.0 m <sup>2</sup>	721.0 m <sup>2</sup>
<b>Lot Width (minimum)</b>	Section 7.3.2.1.2	15.0 m	17.3 m	21.2 m

Table 3 - Relief Requested for Minor Variance

Regulation	By-law 160-90 Section	Required	Proposed	Relief Requested
<b>Accessory Lot</b>	Section 6.3.1.1	10%	20.5%	+ 10.5%

Regulation	By-law 160-90 Section	Required	Proposed	Relief Requested
Coverage (maximum)				
Lot Coverage (maximum)	Section 7.3.2.1.3	35%	39.6%	+ 4.6%
Rear Yard Setback (minimum)	Section 7.3.2.1.6	7.5 m	1.25 m	- 6.25 m

Figure 2 – Photo of Subject Lands



Table 4 – Information on the Subject Lands

Site Details	
Site Features	<p>The site features on the subject lands include:</p> <ul style="list-style-type: none"><li>• Single detached dwelling</li><li>• Detached accessory garage</li></ul> <p>See <b>Figures 2, 3 &amp; 4</b> - Photo of the Subject Lands</p>
Surrounding Context	<p>The following are the surrounding features/uses of the subject lands:</p> <p><b>North</b>      Single detached dwellings</p> <p><b>South</b>      Single detached dwellings</p> <p><b>East</b>        Single detached dwellings</p> <p><b>West</b>        Single detached dwellings</p>

Figure 3 – Photo of Subject Lands (Retained Parcel)





**Figure 4 – Photo of Subject Lands (Parcel to be Severed)**



## 5.0 Input from Other Sources

### 5.1 Technical Comments

The application was circulated to all applicable departments and agencies on October 18, 2024.

The notable comments are summarized below.

**Table 5 - Technical Comments**

Department/Agency	Comments
<b>Mississaugas of the Credit First Nations</b>	As the project prepares to break ground, the MCFN DOCA requires that we be in receipt of all Environmental Study reports and that a Stage 1 Archeological Study be conducted on the site to determine its archaeological potential and further that the Stage 1 report be submitted to MCFN DOCA for review. If it is determined that a Stage 2 is required, MCFN DOCA is expected to be involved in the field study with MCFN Field Liaison Representation (FLR) on-site participation. This study will be at the cost of the proponent.
<b>Building</b>	Provide spatial calculation for accessory dwelling on the retained parcel. Maintain an interior side yard of 7.5 m.
<b>Landscaping</b>	A condition will be required to ensure that trees located at the rear yards of 13 & 11 Burwell Street, and 1 Blake Avenue are

	assessed by an arborist to provide an Arborist Report, a Tree Protection Plan, and Tree Replacement Plan. If land conveyance occurs and considering potential future development plans for 1 Blake, cost sharing of required reports and plans between landowners would be recommended.
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## 5.2 Public Comments

This application was circulated for public comment on November 28, 2024, to property owners within 60 m of the subject lands pursuant to the *Planning Act*.

At the time of writing this report, no public comments on this application have been received.

## 6.0 Planning Staff Comments and Conclusion

The Subject Lands are designated “Residential” in the City’s Official Plan and zoned “Residential Type 1 B (15 metre) Zone (R1B)” in the Zoning By-law 160-90, as shown in **Appendix B** and **Appendix C** respectively. The subject lands are currently zoned “Neighbourhood Low Rise (NLR)” as shown in **Appendix D**. Zoning By-law 124-2024 was approved by Brantford City Council on September 24, 2024. By-law 124-2024 has since been appealed to the Ontario Land Tribunal (OLT).

### 6.1 Planning Analysis for Consent

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 6 - Consent Criteria**

<b>Criteria for Considering a Consent Application</b>	<b>Discussion</b>
1. That the plan conforms to the Official Plan	<p>Section 9.3 (g – i) of the Official Plan also outlines criteria for the subdivision of land and stipulates when consents are appropriate which includes:</p> <ul style="list-style-type: none"> <li>a) when a Plan of Subdivision is deemed unnecessary and where the application conforms to the policies of the Official Plan,</li> <li>b) no more than three new lots are being created; and</li> <li>c) all lots have frontage on a municipal road and do not require that municipal services be extended.</li> </ul> <p>This application meets all the above criteria with the creation of one new lot and one retained lot. The proposed new lot fronts onto a fully-serviced municipal road, and therefore Staff are of the opinion that the proposed severance meets the general intent of the Official Plan in regard to land division.</p>
2. The dimensions and shapes of the proposed lot	As shown in <b>Table 2</b> , both the Retained and Severed Lot comply with the required lot area and lot width in the Zoning By-law 160-90. The proposed lots are very similar in both size and shape to other single-detached dwelling lots in this area.
3. The adequacy of utilities and municipal services	Both the proposed severed and retained parcels will have frontage onto a fully-serviced public road, and therefore, servicing is considered adequate. It is also 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 listed in <b>Appendix A</b> .

## 6.2 Planning Analysis for Minor Variance

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 7 - Four Tests of a Minor Variance**

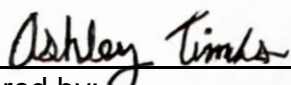
Four Tests	Discussion
<p>1. That the requested variance is minor in nature</p>	<p>“Minor” is determined by impact, not by the value of the variance being sought.</p> <p>The relief sought in this application is not anticipated to cause any adverse impacts on neighbouring properties. The variance for accessory lot coverage and total lot coverage on the retained parcel is consistent with lots in the surrounding area. The retained lot meets the landscape open space provisions and contains adequate outdoor amenity space. The rear yard variance results due to the unique lot shape of the parcel and the location of the lots frontage on Slater Street. This rear yard does not reflect a typical rear yard and will function as a side yard. It is therefore Staff’s opinion that the requested variances are minor in nature.</p>
<p>2. That the intent and purpose of the <b>Zoning By-law</b> is maintained</p>	<p>The subject site is zoned “Residential Type 1 B” (R1B) in Zoning By-law 160-90, and the intent of this zone is to accommodate a diverse range of residential uses. The intent of lot coverage provisions are to ensure that an adequate portion of a lot is landscaped and that there is sufficient room for stormwater management, outdoor amenity space, and to allow enough room for things such as servicing. The general intent of rear yard provisions are to ensure that privacy is maintained for neighbours and ensure there is adequate outdoor amenity space. Staff note that a condition of approval for this variance is that 7.5 m is maintained for the side yard directly abutting the retained parcel. It is therefore Staff’s opinion that the general intent and purpose of the Zoning By-law will be maintained.</p>
<p>3. That the general intent and purpose of the <b>Official Plan</b> is maintained</p>	<p>The subject site is designated “Residential” in the Official Plan. The intent of this designation is to allow for a range of residential housing types. Single detached dwellings are permitted within this designation and the proposed dwelling will contribute to the City’s housing stock. Therefore, it is Staff’s opinion that the general intent and purpose of the Official Plan will be maintained.</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 Staff's opinion that the proposal is desirable as it would facilitate the development of a single detached dwelling and contribute to the City's housing stock. In addition, this proposal seeks to develop an underutilized portion of the existing oversized lot and is consistent with surrounding land use in the neighbourhood. Staff do not anticipate that the relief sought will create any adverse impacts on the surrounding area, as such it is Staff's opinion that relief sought is a desirable and appropriate use of the land.

### 6.3 Conclusion

Staff recommends approval of the subject application(s) for the following reasons:

- The application(s) satisfies Section 51(24) (for consents only) and Section 45(1) (for minor variances only) of the *Planning Act*, as detailed above.
- The consent and minor variances will facilitate the development of one lot and single detached dwelling. The proposal is consistent with surrounding land use and the variances sought are not anticipated to cause any adverse impacts on the neighbourhood.
- A site inspection was completed on November 6, 2024 and no issues were found.



Prepared by:  
Ashley Timbs, Development Planning  
November 28<sup>th</sup>, 2024



Reviewed by:  
Jeff Medeiros, MCIP, RPP, Acting  
Manager of Development Planning  
December 11, 2024

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## APPENDIX A – Conditions of Consent (B41-2024)

1. Receipt of a registered Reference Plan showing the severed and retained parcels.
2. Receipt of payment for cash-in-lieu of parkland (*amount to be determined in accordance with City of Brantford By-law 139-2022*).
3. Receipt of confirmation that all taxes are paid up to date.
4. Receipt of confirmation that the applicant shall submit to the Secretary-Treasurer a draft of the Transfer deed for review (*Upon registration a final copy of the Transfer deed shall be provided to the City*).
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 financially 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 Manger of Development Engineering or his/her designate. The Owner/Applicant must also demonstrate that stormwater management can be implemented for the site without impacting adjacent neighbouring properties (i.e. stormwater connection, LID options implemented, surface runoff conveyed to Slater St., etc.).
11. The Owner/Applicant shall be responsible **financially to provide for the urbanization of Slater Street** including the extensions of curbs, sidewalks, street signage, street lighting, catch basins and the extension of services as required

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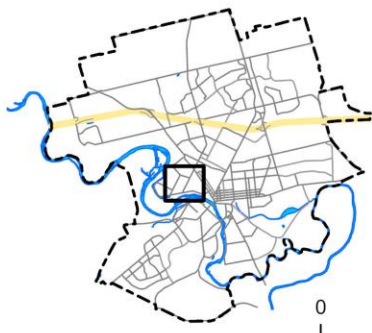
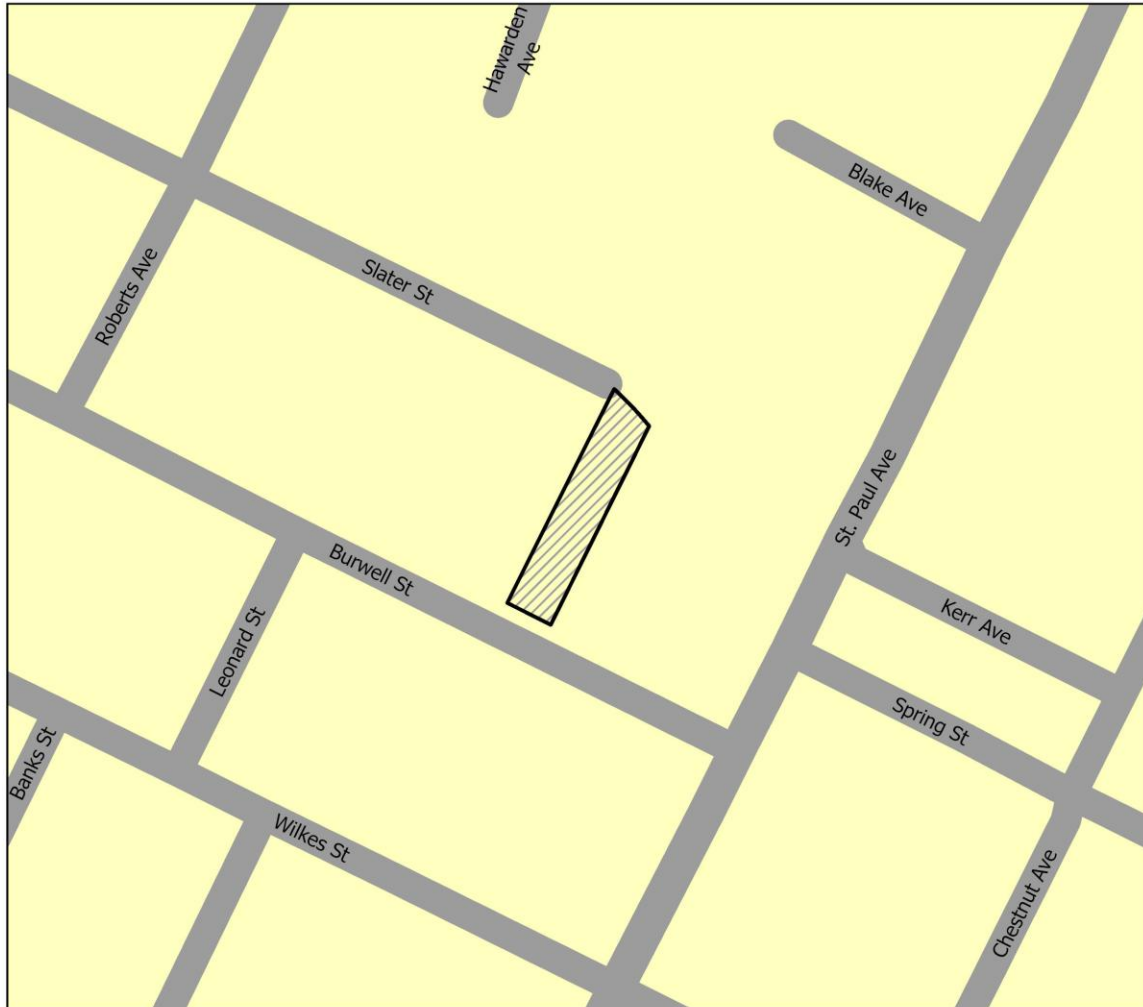
(Storm, Sanitary, Water), etc. In order to urbanize Slater Street, a full ROW cross section will be required to be dedicated to the City. If a full width ROW dedication is not possible, no ROW will be taken from Slater Street.

12. The Owner/Applicant shall provide the Municipality with a **letter of credit** (or other security satisfactory to the Treasurer for the Municipality), and which shall be in an amount equivalent to the costs related to the extension and urbanization of Slater Street.
13. The Owner/Applicant shall ensure a **Blanket drainage easement & Letter of Undertaking** is provided from the applicant's solicitor ensuring that a land conveyance for drainage purposes (above and/or below grade) will be registered on title for the retained and severed parcels.
14. The Owner/Applicant will be required to provide an Arborist Report, Tree Protection Plan, and Replacement Tree Plan prepared by a qualified arborist for trees located in the rear yards of 13 Burwell Street, 11 Burwell Street, and 1 Blake Avenue, to the satisfaction of the Manager of Development Engineering or his/her designate, if applicable.
15. 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.
16. 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.
17. That the above conditions be fulfilled and the Certificate of Consent be issued on or before **December 17, 2026**, after which time the consent will lapse.

## APPENDIX B – Official Plan

### OFFICIAL PLAN EXCERPT MAP

Application: B41-2024 & A57-2024  
13 Burwell Street



#### Legend

- |  |                                 |
|--|---------------------------------|
| Agricultural Designation                 | Prestige Employment Designation |
| Core Natural Areas Designation           | Commercial Mixed Use Corridor   |
| Residential Designation                  | General Employment Designation  |
| Major Institutional Designation          | Six Nations Territory           |
| Parks and Open Space Designation         | VIA Station                     |
| Downtown Urban Growth Centre Designation | Transit Terminal                |
| Major Commercial Centre Designation      | Subject Land                    |
| Intensification Corridor Designation     |                                 |





**APPENDIX C – Zoning By-law 160-90**

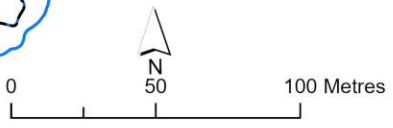
**ZONING MAP**

Application: B41-2024 & A57-2024  
 13 Burwell Street



Subject Land  
 Zoning

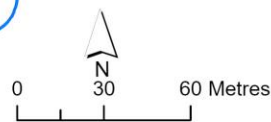
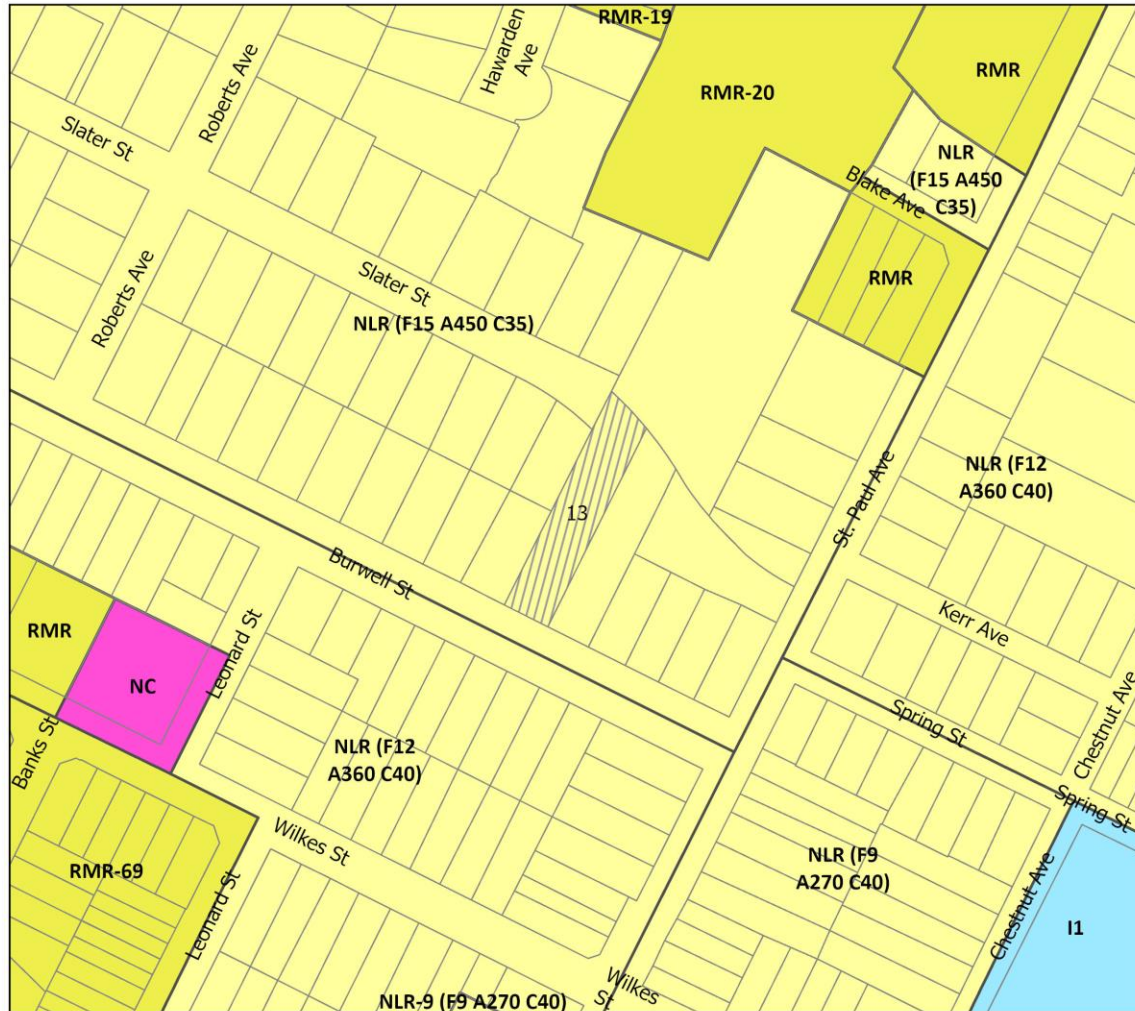
- ZONING (Bylaw 160-90) and County of Brant(61-16)**
- R1B Residential Type 1B (15 metre)
  - R1C Residential Type 1C (12 metre)
  - R3 Residential Type 3
  - RC Residential Conversion
  - R4A Residential Medium Density Type A
  - I2 Institutional School
  - M2 General Industrial
  - F Floodplain Provision
  - # Exception Number



## APPENDIX D – Zoning By-law 124-2024

### ZONING (Bylaw 124-2024)

Application: B41-2024 & A57-2024  
 13 Burwell Street



#### Legend

- /// Subject Land
- Schedule A Zones**
- Mixed Use Zones**
  - Historic Mainstreets (HM)
  - Upper Downtown (UD)
  - Lower Downtown (LD)
  - Major Commercial Centre (MCC)
  - Brant Heritage Conservation District (BHC)
  - Intensification Corridor (IC)
- Commercial Zones**
  - Automotive Service (AS)
  - Convenience Commercial (CC)
  - Neighbourhood Commercial (NC)
- Residential Zones**
  - SR (Suburban Residential)
  - Greenfield Neighbourhood Low-Rise (GNLR)
  - Neighbourhood Low-Rise (NLR)
  - Residential Mid-Rise (RMR)
  - Residential High-Rise (RHR)
- Employment Zones**
  - General Employment (GE)
  - Prestige Employment (PE)
- Institutional Zones**
  - Minor Institutional (I1)
  - Major Institutional (I2)
- Other Zones**
  - Agricultural (A)
  - Core Natural (N)
  - Open Space (OS)
  - Development (D)
  - Six Nations