



Staff Report

Planning & Development Services – Planning Division

Report To: COW-Operations, Planning and Development Services
Meeting Date: January 16, 2024
Report Number: PDS.24.003
Title: Recommendation Report: Consent for Permanent Easements 150 King Street and 160 King Street, Thornbury
Prepared by: Adam Farr, Senior Planner

A. Recommendations

THAT Council receive Staff Report PDS.24.003, entitled “Recommendation Report: Consent for Permanent Easements 150 King Street and 160 King Street, Thornbury”;

AND THAT Council grant Provisional Consent to Application P3345 subject to the conditions described in Attachment 1 Draft Consent Decision of report PDS.24.003.

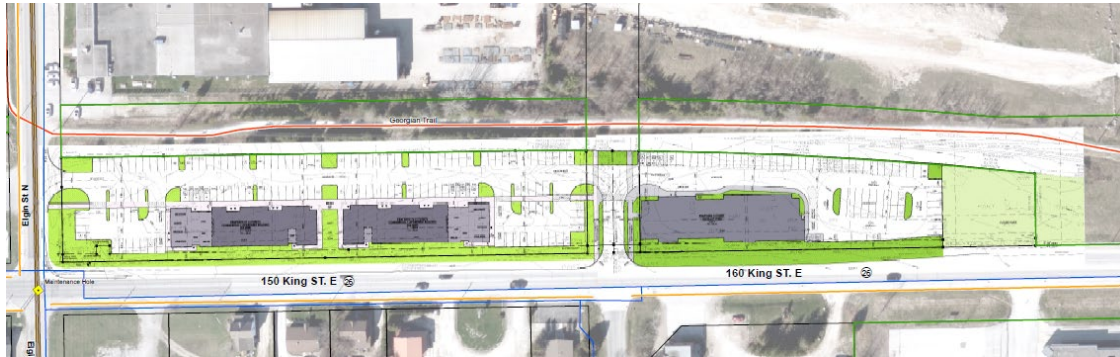
B. Overview

The properties, 150 King Street and 160 King Street are separately owned and are the subject of a site plan application that is nearing completion for two buildings with ground floor retail and residential above on 150 King Street and a hotel on 160 King Street. Before site plan approval can be finalized any off-site dependencies of the respective properties need to be resolved and referenced on the approved drawings. This proposal is only to establish permanent reciprocal easements across the two properties so that there is a legal right of travel, parking (as required), access, usage and recognition of servicing interdependencies on each property.

C. Background

The properties at 150 and 160 King Street (see Figure 1) are the subject of a site plan application filed in 2022 for which the applicants are seeking approval of two apartments and ground floor retail on one site (150 King Street) and a hotel on the other (160 King Street).

The properties are separately owned and, in order to have legal rights of usage for parking, access and servicing across the respective properties, permanent easements are required. Once registered the legal instruments will be referenced on the final site plan drawings.



(Figure 1: Subject Properties)

These lands (160 King Street) were the subject of a municipal land exchange approved by Council in 2021 wherein the Town deemed surplus the portion of unopened Wellington Road allowance that divided the two properties. After fulfilling the related policy requirements for dealing with surplus lands, the owner of 160 King St. transferred a portion of land at the eastern extent of their property to the Town for a park and the Town transferred the portion of the unopened Wellington Road road allowance to the owner of 160 King St. This allowed for the physical connection between the two sites that facilitated the development design on which the site plan is structured.

In 2022 a Minor Variance (A53-2022) was granted to 160 King St. to reduce related parking requirements on that property on the basis set out in the supporting parking study that surplus parking available on 150 King St would be available at key times and be made available to 160 King St as needed. 150 King St. had a surplus of parking and 160 King St. a shortage relative to By-law requirements. Parking and access requirements to the combined 150 King St. and 160 King St. sites were identified in respective Parking and Traffic Reports that were filed with the Minor Variance.

The subject Consent Applications further support the parking, access and servicing requirements across the two sites.

D. Analysis

The subject consent for easement applications are separate from, but related to, the associated site plan. This analysis is focused on the easements while reference to the related site plan is provided for explanatory purposes relative to the intent of the subject applications.

The proposed easements facilitate the intra-site function of the two properties and are required to be registered prior to site plan approval and referenced on the site plan drawings. A notation will be included on the site plan that references the details of the minor variance at 160 King St. and the associated parking study in order to ensure that there is clarity around the parking standards applicable to the two properties through the shared parking arrangement.

While private easements can be entered into between parties they can only be entered into for a period of 21 years less a day; anything more requires a permanent easement and municipal approval. In this case, there is a municipal interest in permanent easements such that parking and transportation access requirements for site function can be met and other interdependencies addressed.

This proposal is otherwise consistent, in conformity and/or compliant as appropriate with the Provincial planning framework.

Provincial Policy Statement (PPS) 2020:

The project proposal falls within the Thornbury urban settlement area. The proposed easements facilitate the coordination of development activities across two separately titled properties. The project is consistent with PPS direction in:

1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns re:

- intensification and redevelopment within settlement areas,
- ensuring necessary and infrastructure and public service facilities are or will be available to meet current and projected needs.

More generally, the proposal facilitates the fulfillment of wider range other policies by way of the associated site plan application.

County of Grey Official Plan 2019:

The lands are designated Primary Settlement area in the County of Grey Official Plan.

The proposal, particularly as related to the associated site plan fulfills various County policies that are supportive of redevelopment, housing, economic development, and infrastructure efficiency.

Town of The Blue Mountains Official Plan 2016:

The lands fall within the Downtown Area and the proposal fulfills policies, in particular under section 3.3.4.1 regarding adequate parking provisions, coordination of access points and lot frontage.

Town of the Blue Mountains Zoning By-law 2018-65:

The proposed parking solution that was approved via a Minor Variance A53-2022 is supported by the subject applications by way of the reciprocal access and parking arrangement. Related provisions will be included as requirements of the final site plan drawings associated with this project.

E. Strategic Priorities

1. Communication and Engagement

We will enhance communications and engagement between Town Staff, Town residents and stakeholders

3. Community

We will protect and enhance the community feel and the character of the Town, while ensuring the responsible use of resources and restoration of nature.

4. Quality of Life

We will foster a high quality of life for full-time and part-time residents of all ages and stages, while welcoming visitors.

F. Environmental Impacts

There are no environmental impacts associated with the preparation of this report. This development builds on infrastructure and servicing within the Thornbury area and represents intensification of the Town's urban lands.

G. In Consultation With

This report was prepared in consultation with the applicant, theirs and the Town's respective solicitors, the Manager of Planning and the Director of Planning and Development.

H. Public Engagement

The topic of this Staff Report has been the subject of a Public Meeting and/or Public Information Centre which took place on **November 21, 2023**. Those who provided comments at the Public Meeting and/or Public Information Centre, including anyone who has asked to receive notice regarding this matter, has been provided notice of this Staff Report. Any comments regarding this report should be submitted to Adam Farr, planning@thebluemountains.ca.

A notice was sent to property owners within 60 m of the subject property 20 days prior to the public meeting and a sign was posted on the property directly adjacent to and visible from King St.

Any comments regarding this report should be submitted to Adam Farr, planning@thebluemountains.ca.

I. Attached

Attachment 1: Draft Consent Decision

Attachment 2: Public Meeting Comments

Respectfully submitted,

Adam Farr, Senior Planner

For more information, please contact:

Adam Farr

planning@thebluemountains.ca

519-599-3131 extension 283

Report Approval Details

Document Title:	PDS.24.003 Recommendation Report - Consent for Permanent Easement - 150 and 160 King Street.docx
Attachments:	- PDS-24-003-Attachment- 1.pdf - PDS-24-003-Attachment-2.pdf
Final Approval Date:	Jan 2, 2024

This report and all of its attachments were approved and signed as outlined below:

Shawn Postma - Dec 22, 2023 - 9:27 AM

Adam Smith - Jan 2, 2024 - 9:35 AM



The Corporation of the Town of The Blue Mountains

Decision on Consent Application File P3345

Owner/Applicant:	2706499 Ontario Ltd. (150 King St.) Thornbury Hills Ltd. (160 King St.)		
Purpose / Effect:	The purpose and effect of this application is to create permanent reciprocal easements over the properties 150 King Street and 160 King Street which are the subject of a Site Plan application in which there are various intra-site dependencies including: parking, access, usage and servicing.		
Legal Description:	(PART OF LOTS 6 to 14 and Part of Wellington Street)		
Road Access:	Elgin Street and King Street		
Municipal Water:	Yes	Municipal Sewer:	Yes
Decision:	<u>Grant Provisional Consent</u>		
Date of Decision:	January 29, 2024		

In making the decision upon this application for Consent, the Council of the Town of The Blue Mountains is satisfied that the proposed Consent Application complies with the intent and direction of the Provincial Policy Statement, County of Grey Official Plan and the Town of The Blue Mountains Official Plan and represents good planning.

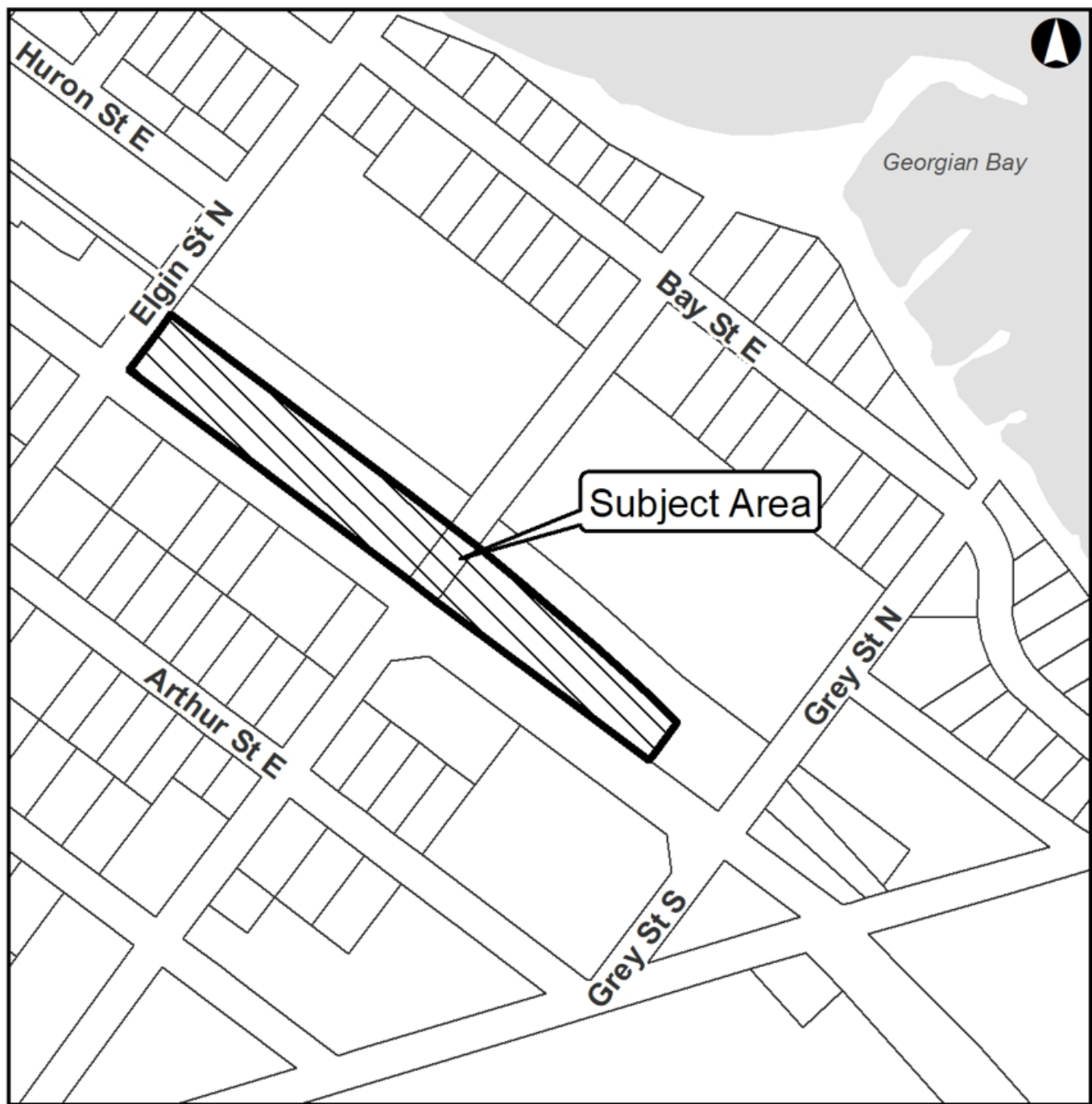
If provisional consent is given, then the following conditions must be met by January 29, 2026.

1. That all taxes, penalties, and interest levied on the subject properties at the time of the certification of transfer/deed for the easement be paid in full prior to the issuance of the certificate of official.
2. That a draft reference plan be prepared by an Ontario Land Surveyor for the purposes of facilitating the transaction of Consent File P3345 and that this plan be approved by the Municipality prior to being deposited with the Land Registry Office.
3. That the easement instruments associated with this approval be in accordance with those appended to this approval to the satisfaction of the Town to the lands established in the draft reference plan and be registered accordingly on the subject lands.
4. That all above conditions be fulfilled within two years of the Notice of Decision so that the Town Clerk is authorized to issue the Certificate of Consent pursuant to Section 53(42) of the Planning Act.

Corrina Giles, Town Clerk
Town of The Blue Mountains
32 Mill Street, Box 310, Thornbury, ON, N0H 2P0

Dated: January 29, 2024

Subject Lands



160 KING STREET EASEMENTS OVER LANDS OF 150 KING STREET

SERVIENT LANDS:

PIN: 371410090

Legal Description: PT LT 10 NE/S KING ST, 11 NE/S KING ST, 12 NE/S KING ST, 13 NE/S KING ST, 14 NE/S KING ST PL THORNBURY AS IN R446492 & AS IN R446494 (FOURTHLY) SUBJECT TO AN EASEMENT IN GROSS OVER PART 10 16R11658 AS IN GY224559 TOWN OF THE BLUE MOUNTAINS

DOMINANT LANDS:

PIN: 371410314

Legal Description: PT WELLINGTON ST PL THORNBURY SW OF 16R7277 & NE OF KING ST, (PART WELLINGTON STREET CLOSED BY BYLAW GY230291) SAVE AND EXCEPT PARTS 6 & 8 ON PLAN 16R11658 TOWN OF THE BLUE MOUNTAINS

PIN: 371410313

Legal Description: PT WELLINGTON ST PL THORNBURY SW OF 16R7277 & NE OF KING ST, (PART WELLINGTON STREET CLOSED BY BYLAW GY230291), BEING PARTS 6 & 8 ON PLAN 16R11658 SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 6 & 8 ON PLAN 16R11658 AS IN GY238632 TOWN OF THE BLUE MOUNTAINS

PIN: 371410310

Legal Description: PT LT 6 NE/S KING ST PL THORNBURY, 7 NE/S KING ST PL THORNBURY ,8 NE/S KING ST PL THORNBURY,9 NE/S KING ST PL THORNBURY BEING PT 1 16R11290 SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 2 AND 4, PLAN 16R11658 AS IN GY224558 TOWN OF THE BLUE MOUNTAINS

TERMS AND CONDITION OF EASEMENT

A) The easement herein granted, in favour the transferees, being the owners and occupants of the Dominant Lands for the following purposes:

1. To enter upon the Servient Lands, herein after referred to as the "Easement Lands":
 - i) To inspect, maintain, open, add to, alter replace, relocate, reconstruct and supplement those shared underground watermains and water pipes, including all appurtenance necessary or incidental thereto, in, on, across, under and through the Easement Lands.
 - ii) To inspect, maintain, open, add to, alter replace, relocate, reconstruct and supplement those shared sanitary sewers, manholes, pipes, including all appurtenance necessary or incidental thereto, in, on, across, under and through the Easement Lands.
 - iii) To inspect, maintain, open, add to, alter replace, relocate, reconstruct and supplement those shared storm sewers, manholes, catch basins, pipes, including all appurtenance necessary or incidental thereto, in, on, across, under and through the Easement Lands.
2. For the servants, agents, contractors and workers of, and other persons authorized by the Transferee , at all times and from time to time to pass and repass in, on, over and under the Easement Lands with all plant, machinery, materials, vehicles and equipment as may be necessary or incidental to the exercise and for the enjoyment of the rights and easement set out above provided that at all times such rights are exercised with reasonable dispatch and with a view to minimizing impact on the transferor and any other persons enjoying any rights of easement over the same Easement Lands, and upon reasonable notice in writing of such actions being first provided to the transferor in advance of the transferee undertaking the same.
3. Upon the completion by the Transferee of the construction, replacement, maintenance, repair, alteration, or other actions contemplated under paragraph 1.i), 1.ii) and 1.iii) above, the Transferee shall fill in all excavations and, as far as practical restore the surface of the Easement Lands to the same condition as that in which they were found prior to the commencement of work and shall remove all equipment and rubbish.
4. The Transferor shall not excavate, drill, install, erect, build or permit to be excavated, drilled. Installed, erected, or built, on, in, over, through or under the Easement Lands, any pit, well, building, structure or obstructions of any nature whatsoever, or plant any vegetation on the Easement Lands in the vicinity any underground water main, and sanitary and storm sewer without prior written consent of the Transferee, which may be withheld by the Transferee in its sole and unfettered discretion.

B) An easement herein is granted in favour of the Transferee, being the owners and occupants of the Dominant Lands, and their employees and patrons, for the following purposes:

1. To enter upon the Easement Lands for purpose of vehicular and pedestrian access to and from the Dominant Lands.
2. To enter upon the Easement Lands for purpose of vehicular parking at designated spots for the transferee.

This document may be made available in other accessible formats as soon as practicable and upon request.

The easements granted under A and B above shall extend to and be binding upon the parties hereto, their heirs, successors and assigns.

150 KING STREET EASEMENTS OVER LANDS OF 160 KING STREET

SERVIENT LANDS:

PIN: 371410314

Legal Description: PT WELLINGTON ST PL THORNBURY SW OF 16R7277 & NE OF KING ST, (PART WELLINGTON STREET CLOSED BY BYLAW GY230291) SAVE AND EXCEPT PARTS 6 & 8 ON PLAN 16R11658 TOWN OF THE BLUE MOUNTAINS

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 - i) To inspect, maintain, open, add to, alter replace, relocate, reconstruct and supplement those shared underground watermains and water pipes, including all appurtenance necessary or incidental thereto, in, on, across, under and through the Easement Lands.
 - ii) To inspect, maintain, open, add to, alter replace, relocate, reconstruct and supplement those shared sanitary sewers, manholes, pipes, including all appurtenance necessary or incidental thereto, in, on, across, under and through the Easement Lands.
 - iii) To inspect, maintain, open, add to, alter replace, relocate, reconstruct and supplement those shared storm sewers, manholes, catch basins, pipes, including all appurtenance necessary or incidental thereto, in, on, across, under and through the Easement Lands.
2. For the servants, agents, contractors and workers of, and other persons authorized by the Transferee , at all times and from time to time to pass and repass in, on, over and under the Easement Lands with all plant, machinery, materials, vehicles and equipment as may be necessary or incidental to the exercise and for the enjoyment of the rights and easement set out above provided that at all times such rights are exercised with reasonable dispatch and with a view to minimizing impact on the transferor and any other persons enjoying any rights of easement over the same Easement Lands, and upon reasonable notice in writing of such actions being first provided to the transferor in advance of the transferee undertaking the same.
3. Upon the completion by the Transferee of the construction, replacement, maintenance, repair, alteration, or other actions contemplated under paragraph 1.i), 1.ii) and 1.iii) above, the Transferee shall fill in all excavations and, as far as practical restore the surface of the Easement Lands to the same condition as that in which they were found prior to the commencement of work and shall remove all equipment and rubbish.
4. The Transferor shall not excavate, drill, install, erect, build or permit to be excavated, drilled. Installed, erected, or built, on, in, over, through or under the Easement Lands, any pit, well, building,

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structure or obstructions of any nature whatsoever, or plant any vegetation on the Easement Lands in the vicinity any underground water main, and sanitary and storm sewer without prior written consent of the Transferee, which may be withheld by the Transferee in its sole and unfettered discretion.

- B) An easement herein is granted in favour of the Transferee, being the owners and occupants of the Dominant Lands, for the following purposes:
- 1. To enter upon the Easement Lands for purpose of vehicular and pedestrian access to and from the Dominant Lands.
 - 2. To enter upon the Easement Lands for purpose of vehicular parking at designated spots for the transferee.

The easements granted under A and B above shall extend to and be binding upon the parties hereto, their heirs, successors and assigns.

Certification

Planning Act, R.S.O 1990, c. P.13, Sec 53(17) and 53(24), as amended

I, Corrina Giles, Town Clerk of The Corporation of the Town of The Blue Mountains, certify that the above is a true copy of the decision of the Council of The Corporation of the Town of The Blue Mountains with respect to the application recorded therein.

Corrina Giles, Town Clerk
Town of The Blue Mountains

Dated: January XX, 2024

Town and Agency Comments

Comments	Date	Comments / Concerns / Questions Summary:	Planning Staff Response:
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Received By:	Received:
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- **No Comments Received**