

# Staff Report



Development Services Department

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**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** March 21, 2023

**SUBMITTED BY:** Tina Malone-Wright, Interim Manager, Development Review  
519-741-2200 ext. 7765

**PREPARED BY:** Craig Dumart, Senior Planner, 519-741-2200 ext. 7073

**WARD(S) INVOLVED:** Ward(s) 10

**DATE OF REPORT:** March 8, 2023

**REPORT NO.:** DSD-2023-126

**SUBJECT:** Consent Application B2023-008, B2023-009 – 241-243 Victoria Street South -  
Willowside Housing Co-Operative Inc. - Scott Patterson

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## RECOMMENDATION:

- A. That Consent Application B2023-008 Requesting consent to sever a parcel of land having a width of 9.4 metres along Victoria Street South, a depth of 41.4 metres and an area of 389.3 square metres proposed as a lot addition to the adjacent property municipally addressed as 239 Victoria Street South, BE APPROVED subject to the following conditions:
1. That the lands to be severed be added to the abutting lands, municipally addressed as 239 Victoria Street South and title be taken into identical ownership as the abutting lands. The deed for endorsement shall include that any subsequent conveyance of the parcel to be severed shall comply with Sections 50(3) and/or (5) of the Planning Act, R.S.O. 1990, c. P.13, as amended.
  2. That the property owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
  3. That the property owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.
  4. That the property owner provides a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full size paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
  5. That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00.

\*\*\* This information is available in accessible formats upon request. \*\*\*  
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

6. That prior to final approval, the owner/applicant submit the GRCA minor consent review fee of \$465.00.
  7. That a Stamp Plan B Site Plan Application is submitted to the satisfaction of the Director of Planning to update site plan for existing multiple dwelling development at 241-243 Victoria Street South.
- B. That Consent Application B2023-009 requesting consent to create an access easement (on the lands to be retained at 241-243 Victoria Street South) having a width of 13.1 metres, a depth of 41.4 metres and an area of 545.2 square metres to provide access to the adjacent property municipally addressed as 239 Victoria Street South, BE APPROVED subject to the following conditions:**
1. That the property owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
  2. That the property owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.
  3. That the property owner provides a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full size paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
  4. That the Transfer Easement document(s) required to create the Easement(s) being approved herein shall include the following, and shall be approved by the City Solicitor in consultation with the City's Supervisor, Development Applications:
    - a) a clear and specific description of the purpose of the Easement(s) and of the rights and privileges being granted therein (including detailed terms and/or conditions of any required maintenance, liability and/or cost sharing provisions related thereto); and
    - b) a clause/statement/wording confirming that the Easement(s) being granted shall be maintained and registered on title in perpetuity and shall not be amended, released or otherwise dealt with without the express written consent of the City.
  5. That a satisfactory Solicitor's Undertaking, to register the approved Transfer Easement(s) and to immediately thereafter provide copies thereof to the City Solicitor, be provided to the City Solicitor.

#### **REPORT HIGHLIGHTS:**

- The applicant is proposing a lot addition to sever a parcel of land from 241-243 Victoria Street South in favour of the adjacent property at 239 Victoria Street South and proposing to create an access easement over 241-243 Victoria Street South to provide access to the adjacent property at 239 Victoria Street South for future six storey multiple dwelling development.
- There are no financial implications.
- This report supports the delivery of core services.

## BACKGROUND:

The subject property is located on the near the intersection of Strange Street and Victoria Street South. The neighbourhood is comprised of a mix of low, mid-rise and high-rise residential uses, and commercial/retail uses.



**Figure 1: Location Map – 239, 241 and 243 Victoria Street South**

The subject property is identified as 'Community Areas' on Map 2 – Urban Structure and is designated 'Medium Density Multiple Residential' in the Victoria Park Neighbourhood Secondary Plan in the City of Kitchener's Official Plan. The property is zoned 'Residential Eight Zone (R-8) with Special Regulation 1R' in Zoning By-law 85-1.

The applicant is requesting consent (B2023-008) to sever a parcel of land having a width of 9.4 metres along Victoria Street South, a depth of 41.4 metres and an area of 389.3 square metres proposed as a lot addition to the adjacent property municipally addressed as 239 Victoria Street South. Furthermore, the applicant is requesting consent (B2023-009) to create an access easement (on the lands to be retained) having a width of 13.1 metres along Victoria Street South, a depth of 41.4 metres and an area of 545.2 square metres and is proposed to provide access to the adjacent property municipally addressed as 239 Victoria Street South for a future development.



**Figure 2: Proposed Lot Addition and Access Easement**



**Figure 3: Existing site access and conditions at 241-243 Victoria Street South**

Planning staff conducted a site visit on March 6, 2023.

## **REPORT:**

### **PLANNING COMMENTS:**

In considering all the relevant Provincial legislation, Regional and City policies and regulations, Planning staff offer the following comments:

#### Provincial Policy Statement, 2020:

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. Section 1.4.3(b) of the PPS promotes all types of residential intensification, and sets out a policy framework for sustainable healthy, liveable and safe communities. The PPS promotes efficient development and land use patterns, as well as accommodating an appropriate mix of affordable and market-based residential dwelling types with other land uses, while supporting the environment, public health and safety. Provincial policies promote the integration of land use planning, growth management, transit-supportive development, intensification, and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs.

Planning staff is of the opinion that the proposed applications will facilitate a future consolidated development for a multiple dwelling building that will make use of the existing infrastructure. No new public roads would be required for the proposed development. Planning staff is of the opinion that this proposal is consistent with the PPS.

#### A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (Growth Plan):

The Growth Plan supports the development of complete and compact communities that are designed to support healthy and active living, make efficient use of land and infrastructure, provide for a range and mix of housing types, jobs, and services, at densities and in locations which support transit viability and active transportation. The subject lands are in close proximity to transit and the subject lands are in closer proximity to trails and parks.

Policy 2.2.6.1(a) Municipalities will support housing choice through the achievement of the minimum intensification and targets in this plan by identifying a diverse range and mix of housing options and densities, including additional residential units and affordable housing to meet projected needs of current and future residents.

The subject lands are located within the City's delineated built up area. The proposed development represents intensification and will contribute towards achieving the City's intensification density targets. The consent applications will help make efficient use of existing infrastructure, parks, roads, trails and transit. Planning staff is of the opinion that the development proposal conforms to the Growth Plan.

#### Regional Official Plan (ROP):

Urban Area policies of the ROP identify that the focus of the Region's future growth will be within the Urban Area. The subject lands are designated Built-Up Area in the ROP. The proposed development conforms to Policy 2.D.1 of the ROP as this neighbourhood provides for the physical infrastructure and community infrastructure to support the proposed residential development, including transportation networks, municipal drinking-water supply and wastewater systems, and a broad range of social and public health services. Regional policies require Area Municipalities to plan for a range of housing in terms of form, tenure, density and affordability to satisfy the various physical, social, economic and personal support needs of current and future residents. Planning staff are of the opinion that the severance application conforms to the Regional Official Plan.

## Official Plan

The subject lands are designated 'Medium Density Multiple Residential' in the Victoria Park Neighbourhood Secondary Plan in the City of Kitchener's Official Plan. The Medium Density Multiple Residential land use designation permits a full range of low and medium density housing types which may include existing single detached dwellings, semi-detached dwellings, street townhouse dwellings, and medium-rise multiple dwellings. The Medium Density Multiple Residential land use designation encourages encourage new development at densities which provide an appropriate transition between low densities found at the centre of residential neighbourhoods and higher density redevelopment sites at the periphery of the neighbourhood. Opportunities for development are provided to a maximum density of 200 units per hectare and the Maximum Floor Space Ratio of 2.0 to permitted in the Medium Density Multiple Residential land use designation.

The proposed consent applications are in accord with this aspect of the plan and maintains the residential land use designation.

Section 17.E.20.5 of the Official Plan implements Section 51 of the Planning Act and contains policies regarding infill development and lot creation (Consent Policies). These policies state the following:

- 17.E.20.5 Applications for consent to create new lots will only be granted where:
- a) the lots comply with the policies of this Plan, any Community Plan and/or Secondary Plan, and that the lots are in conformity with the Zoning By-law, or a minor variance has been granted to correct any deficiencies;
  - b) the lots reflect the general scale and character of the established development pattern of surrounding lands by taking into consideration lot frontages, areas, and configurations;
  - c) all of the criteria for plan of subdivision are given due consideration;
  - d) the lot will have frontage on a public street;
  - e) municipal water services are available;
  - f) municipal sanitary services are available except in accordance with Policy 14.C.1.19;
  - g) a Plan of Subdivision or Condominium has been deemed not to be necessary for proper and orderly development; and,
  - h) the lot(s) will not restrict the ultimate development of adjacent properties."

Staff are of the opinion that the size, dimensions, and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding neighbourhood; adjacent properties contain a range of medium and low density residential dwelling types also on lots varying in width, depth, and area. The lands front onto a public street and full services are available. There are no natural heritage features that would be impacted by the proposed consent application. Staff are of the opinion that the proposed consent application conforms with the City's Official Plan.

## Zoning By-law 85-1

The property is zoned 'Residential Eight Zone (R-8)' in Zoning By-law 85-1. The 'R-8' zones permit a range of low rise and medium rise residential dwelling types including existing single and semi-detached dwellings street townhouse dwelling and multiple dwellings. The 'R-8' zone requires a

minimum lot width of 15.0 metres for multiple dwellings. The retained and severed lands comply with the minimum lot width regulation as a result of the proposed lot addition.

### **PLANNING CONCLUSIONS**

With respect to the criteria for the subdivision of land listed in Section 51(24) of the Planning Act, R.S.O. 1990, c.P.13, staff is satisfied that the creation of the severed lot and access easement is desirable and appropriate. The uses of both the severed and retained parcels are in conformity with the City's Official Plan and Zoning By-law. Planning staff is of the opinion that the size, dimension and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding community. There are existing schools within the neighbourhood. Staff is further of the opinion that the proposal is consistent with the Region of Waterloo Official Plan, the Provincial Policy Statement, conforms to the Growth Plan for the Greater Golden Horseshoe and is good planning and in the public interest.

### **ENVIRONMENTAL PLANNING COMMENTS:**

Environmental Planning staff does not have any concerns with the proposed application.

### **HERITAGE PLANNING COMMENTS:**

Heritage Planning has no concerns with the proposed consent applications.

### **BUILDING DIVISION COMMENTS:**

The Building Division has no objections to the proposed consent.

### **ENGINEERING DIVISION COMMENTS:**

Engineering staff do not have any concerns of comments with the proposed consent applications.

### **PARKS & CEMETERIES DIVISION COMMENTS:**

Parkland Dedication is not required for the lot addition and any required park dedication associated with the redevelopment of the lands at 235-239 Victoria Street South will be deferred to the site plan application SP21/088/V/LT.

### **TRANSPORTATION PLANNING COMMENTS:**

Transportation Services does not have any concerns with the proposed application.

### **REGION OF WATERLOO COMMENTS:**

The owner/applicant is required to submit the Regional consent review fee of \$350.00 for each application (\$700.00 total) prior to final approval of the consent.

### **Corridor Planning:**

The proposed easement is in front of an existing transit stop. The existing transit stop may need to be relocated as a result of this proposal.

While the related Site Plan application is not yet approved by the City (file SP 21/088/V/LT), several concerns were identified by the Region in the comments dated October 25, 2021. To address the concerns raised, the **following conditions must be secured through a condition of consent for the above application:**

#### **Dedicated Road Widening:**

At this location, Victoria Street South (Regional Road 55) has a designated road width of 26.213m (86ft) in accordance the Regional Official Plan (ROP). The existing Victoria Street South right of way measures approximately 20.117m (66ft) at this location. An estimated road widening dedication of 3.048m (10ft) shall be required along the Victoria Street South property frontage of 235 and 239 Victoria Street South. A draft Reference Plan must be provided to identify the lands to be dedicated fronting the subject properties and the proposed easement. The land must be dedicated to the

Region of Waterloo for road allowance purposes, and must be dedicated without cost and free of encumbrance.

**Environmental Noise Study:**

As this consent is associated with a Site Plan application (SP21/088/V/LT), An Environmental noise study is required as a condition of approval for the proposed consent to address the detailed design of the proposed building on 235-239 Victoria Street North.

**Access Permit:**

A detailed plan showing the proposed access, the existing transit stop and the proposed easement must be provided prior to approval of the access permit.

The Plan must also show that there are no encroachments within the Regional right-of-way for the future proposed development for which the proposed access easement is being requested.

A Regional Access Permit along with the Regional Road Access Permit application can be found online(<https://www.regionofwaterloo.ca/en/doing-business/applications-licences-and-permits.aspx>), there is a \$230 fee associated with the application for a new access, there is no fee for the closure applications.

**The Region has no objection to the proposed application, subject to the following conditions:**

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00.
- 2) That prior to final approval, the owner/applicant will apply for and obtain the required access permit(s) to the satisfaction of the Region of Waterloo.
- 3) That the owner/applicant complete the required road widening dedication to the satisfaction of the Region of Waterloo; and,
- 4) That prior to final approval, the Owner/Developer shall prepare an Environmental and Noise Study to the satisfaction of the Regional Municipality of Waterloo and if necessary, shall enter into a registered development agree with the Regional Municipality of Waterloo to implement the recommendations.

**Planning Staff Response to requested Regional Conditions.**

235-239 Victoria Street are not subject to the consent applications and the requested noise study condition and road widening condition cannot be apply to lands that are not part of the consent application. The requested road widening is condition of Site Plan approval SP21/088/V/LT. A future site plan application is required for the access at 241 Victoria Street which will require a regional access permit as a condition of site plan.

**STRATEGIC PLAN ALIGNMENT:**

This report supports the delivery of core services.

**FINANCIAL IMPLICATIONS:**

Capital Budget – The recommendation has no impact on the Capital Budget.

Operating Budget – The recommendation has no impact on the Operating Budget.

**COMMUNITY ENGAGEMENT:**

INFORM – This report has been posted to the City’s website with the agenda in advance of the Committee of Adjustment meeting. A notice sign was placed on the property advising that a

Committee of Adjustment application has been received. The sign advises interested parties to find additional information on the City's website or by emailing the Planning Division. A notice of the application was mailed to all property owners within 30 metres of the subject property.

**PREVIOUS REPORTS/AUTHORITIES:**

- *Planning Act*
- *Provincial Policy Statement (PPS 2020)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan (ROP)*
- *Official Plan (2014)*
- *Zoning By-law 85-1*

**ATTACHMENTS:**

Attachment A –Severance Sketch