

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

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WARD(S) INVOLVED: Ward 10

DATE OF REPORT: March 2, 2023

REPORT NO.: DSD-2023-081

SUBJECT: Consent Application B 2023-012 - 160 Weber Street West

RECOMMENDATION:

That Consent Application B2023-012 requesting consent to sever a parcel of land having a lot width of 9.4 metres, a lot depth of 41.3 metres and a lot area of 366 square metres, 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 property owner obtains Demolition Control Approval, in accordance with the City's Demolition Control By-law, to the satisfaction of the City's Supervisor, Development Applications.
5. That the property owner obtains a Demolition Permit, for the existing single detached dwelling proposed to be demolished, to the satisfaction of the Chief Building Official, and removes the existing dwelling prior to deed endorsement.
6. That the property owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.

- 7. That the property owner submit a Development Asset Drawing (digital AutoCAD) for the site (servicing, SWM etc.) with corresponding layer names and asset information to the satisfaction of the City's Director of Engineering Services, prior to deed endorsement.**
- 8. That the property owner makes financial arrangements for the installation of any new service connections to the severed and/or retained lands to the satisfaction of the City's Director of Engineering Services.**
- 9. That any new driveways are to be built to City of Kitchener standards at the Owner's expense prior to occupancy of the building to the satisfaction of the City's Director of Engineering Services.**
- 10. That the property owner provides confirmation that the basement elevation can be drained by gravity to the street sewers to the satisfaction of the City's Director of Engineering Services. If this is not the case, then the owner will need to pump the sewage via a pump and forcemain to the property line and have a gravity sewer from the property line to the street to the satisfaction of the City's Director of Engineering Services.**
- 11. That the property owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication equal to \$11,862.00 of the value of the lands to be severed.**
- 12. That the property owner shall enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor, to the satisfaction of the City Solicitor and the City's Supervisor, Site Plans, and registered on title of the severed and retained lands, which shall include the following:**
 - a) That the property owner shall prepare a Tree Preservation and Enhancement Plan for the severed and retained lands, in accordance with the City's Tree Management Policy, to the satisfaction of and approval by the City's Supervisor, Site Plans. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, a landscaped area and the vegetation to be preserved. No changes to the said plan shall be granted except with the prior approval of the City's Supervisor, Site Plans.**
 - b) That the property owner shall implement the Tree Preservation and Enhancement Plan, prior to any tree removal, grading, servicing or the issuance of any demolition and/or building permits, to the satisfaction of the City's Supervisor, Site Plans.**
- 13. That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00;**
- 14. That the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property.**
- 15. That the Owner shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor:**

“Warning: The Applicant is advised that the subject land is located within Metrolinx’s 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.”

REPORT HIGHLIGHTS:

- The applicant is requesting consent to create one new lot and retain one lot equal in size to be used for future duplex dwellings.
- There are no financial implications.
- Community engagement included a notice sign being placed on the property advising that a Committee of Adjustment application has been received, notice of the application was mailed to all property owners within 30 metres of the subject property and this report was posted to the City’s website with the agenda in advance of the Committee of Adjustment meeting.
- This report supports the delivery of core services.

BACKGROUND:

The subject property is located near the corner of Weber Street West and Louisa Street, in the Mount Hope Huron Park neighbourhood. The neighbourhood is comprised of a mix of low and mid-rise residential uses, and commercial/retail uses.

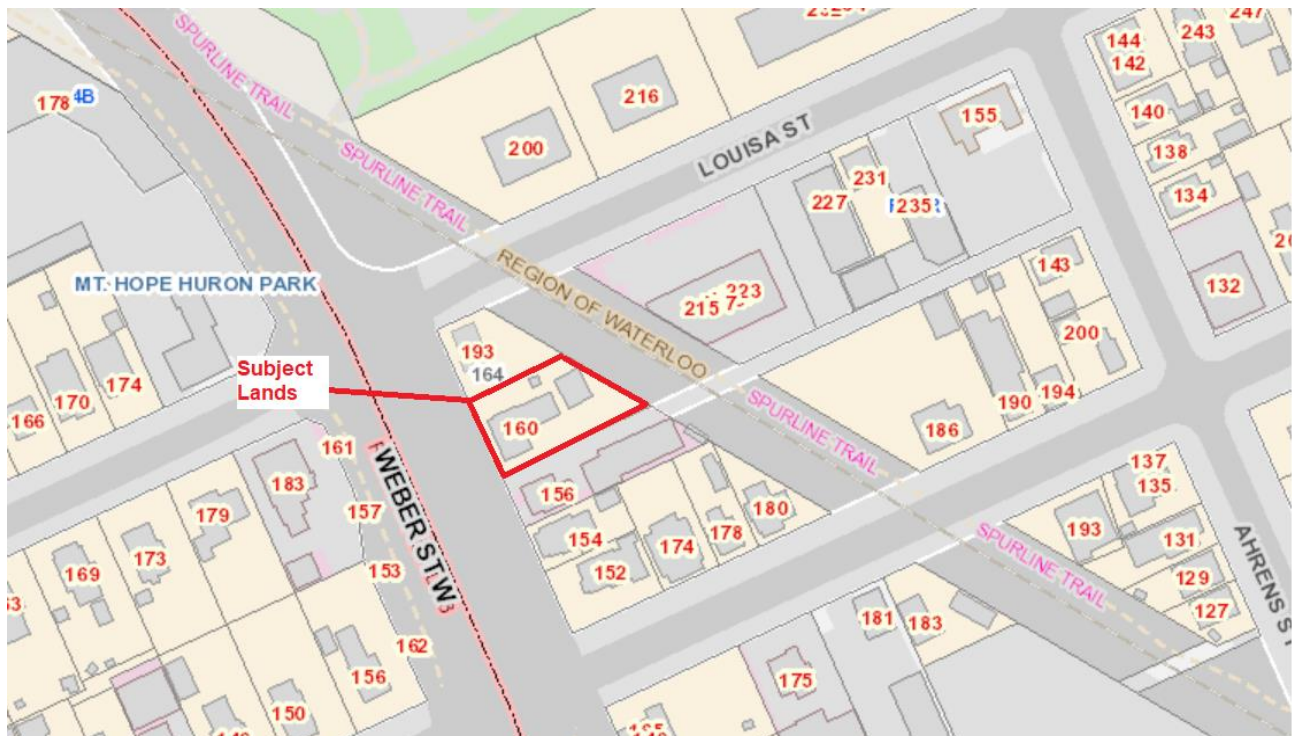


Figure 1: Location Map – 160 Weber Street West

The subject property is identified as 'Community Areas' on Map 2 – Urban Structure and is designated 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan. The property is zoned 'Low Rise Residential Five Zone (RES-5)' in Zoning By-law 2019-051.

The applicant is requesting consent to create one new lot and one retain lot equal in size. To facilitate the redevelopment of the subject lands the applicant is proposing to demolish the existing single detached dwelling on the property and replace it with single detached dwellings on each of the severed and retained lands.

The severed lot would have a lot frontage of 9.4 metres, a lot depth of 41.3 metres and an area of 366 square metres, while the retained lot would also have a lot frontage of 9.4 metres, a lot depth of 34.5 metres and an area of 295 square metres.

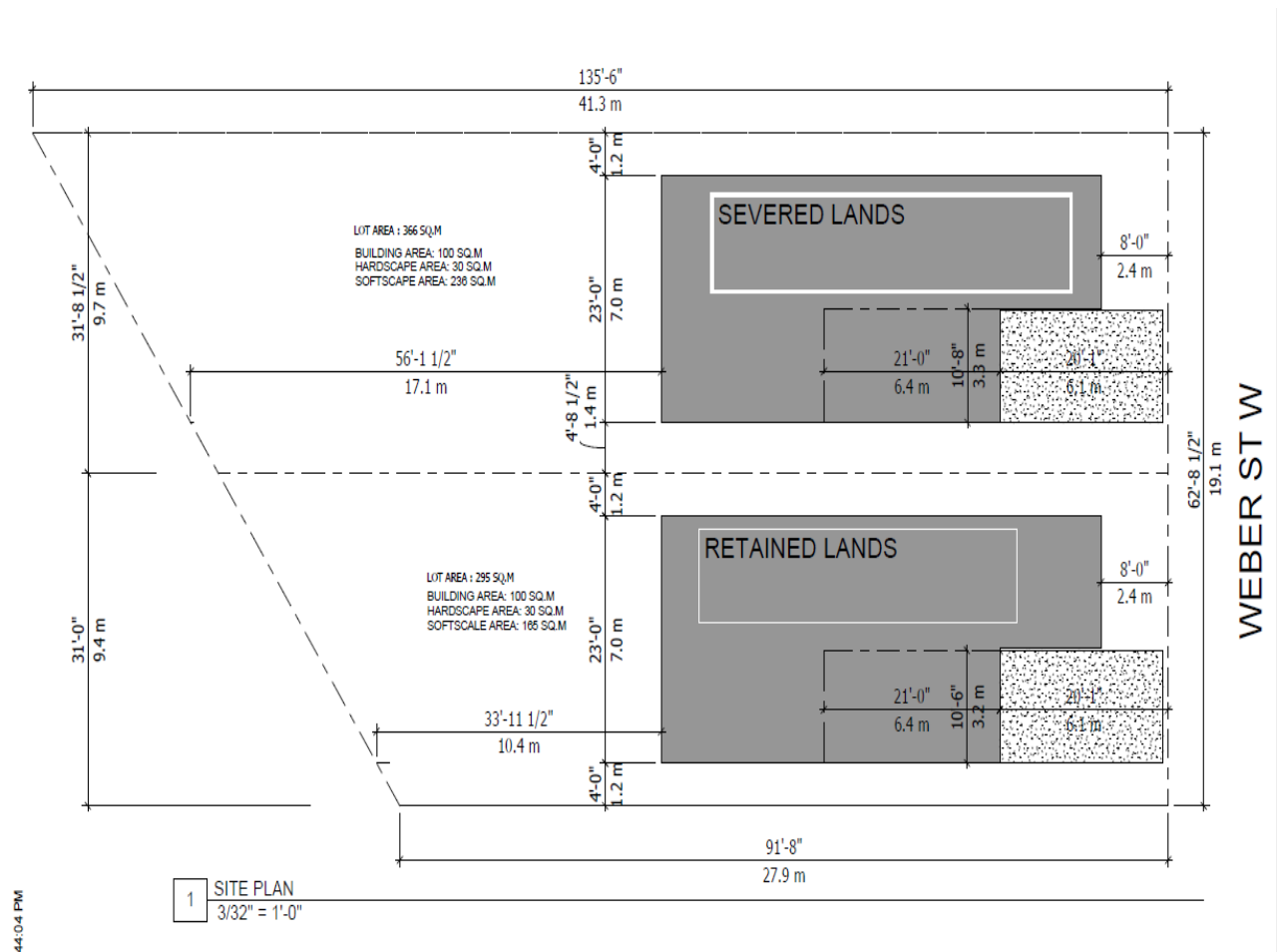


Figure 2: Proposed Lot Fabric



Figure 3: Existing Single Dwelling at 160 Weber Street West

Planning staff conducted a site visit on March 1, 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 application will facilitate a form of gentle intensification of the subject property with the creation of new lot for a future single detached dwelling that is compatible with the surrounding community and 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 severance application 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 Low Rise Residential (Map 3) in the 2014 Official Plan. The Low Rise Residential land use designation permits a full range of low density housing types which may include single detached dwellings, semi-detached dwellings, street townhouse dwellings, and low-rise multiple dwellings. The Low Rise Residential land use designation encourages mixing and integrating different forms of housing to achieve and maintain a low-rise built form. The maximum net residential density for lands which are designated Low Rise Residential will be 30 units per hectare.

The proposed severance is 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.”

The proposed lot widths and lot areas of the proposed severed and retained lots exceed the minimum 'RES-5' zone lot width and lot area requirements and minor variances are not required. 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 neighbourhood which is developed with single detached, semi detached and multiple dwellings with lots sizes that vary 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. Planning staff is of the opinion that the proposed severance conforms with the City of Kitchener Official Plan.

Zoning By-law 2019-051

The property is zoned 'Low Rise Residential Five Zone (RES-5)' in Zoning By-law 2019-051. The 'RES-5' zones permit a range of low rise residential dwelling types including single detached, semi-detached and multiple dwellings. The 'RES-5' zone requires a minimum lot width of 9.0 metres and a minimum lot area of 235 square metres for semi detached dwelling units.

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 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:

The owner shall enter into an agreement on both the severed and retained lands to submit, obtain approval of, and implement a Tree Preservation / Enhancement Plan prior to demo, grading, building permit.

HERITAGE PLANNING COMMENTS:

There are no heritage concerns. The Kitchener Cultural Heritage Landscape Study (CHLS) dated December 2014 and prepared by The Landplan Collaborative Ltd. was approved by Council in 2015. The CHLS serves to establish an inventory and was the first step of a phased Cultural Heritage Landscape (CHL) conservation process. The property municipally addressed as 160 Weber Street West is located within the Mt Hope/Breithaupt Neighbourhood CHL. The owner and the public will be consulted as the City considers listing CHLs on the Municipal Heritage Register, identifying CHLs in the Official Plan, and preparing action plans for each CHL with specific conservation options.

BUILDING DIVISION COMMENTS:

The Building Division has no objections to the proposed consent. Region of Waterloo and Area Municipalities' Design Guidelines and Supplemental Specifications for Municipal Services (DGSSMS)

allows only one service per lot. Separate building permit(s) will be required for the demolition of the existing building, as well as construction of the new residential buildings.

ENGINEERING DIVISION COMMENTS:

- Severance of any blocks within the subject lands will require separate, individual service connections for sanitary, storm, and water, in accordance with City policies.
- The owner is required to make satisfactory financial arrangements with the Engineering Division for the installation of new service connections that may be required to service this property, all prior to severance approval. Our records indicate sanitary and water municipal services are currently available to service this property. Any further enquiries in this regard should be directed to eric.riek@kitchener.ca
- Any new driveways are to be built to City of Kitchener/Region of Waterloo standards. All works are at the owner's expense and all work needs to be completed prior to occupancy of the building.
- A servicing plan showing outlets to the municipal servicing system will be required to the satisfaction of the Engineering Division prior to severance approval.
- A Development Asset Drawing (digital AutoCAD) is required for the new site infrastructure with corresponding layer names and asset information to the satisfaction of the Engineering Division prior to severance approval.
- The owner must ensure that the basement elevation of the building can be drained by gravity to the street sewers. If this is not the case, then the owner would have to pump the sewage via a pump and forcemain to the property line and have a gravity sewer from the property line to the street.

PARKS & CEMETERIES DIVISION COMMENTS:

Cash-in-lieu of park land dedication will be required on the severed parcel as 1 new development lot will be created. **The cash-in-lieu dedication required is \$11,862.00.** Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of (7.52m) at a land value of \$36,080.00 per frontage meter with a per unit cap rate of \$11,862.00.

TRANSPORTATION PLANNING COMMENTS:

Transportation Services have no concerns with the proposed application.

REGION OF WATERLOO COMMENTS:

Regional Fee:

The owner/applicant is required to submit the Regional consent review fee of \$350.00 per consent application prior to final approval of the consent.

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 per consent application.

Updated Region of Waterloo comments/conditions will be provided under separate cover.

METROLINX COMMENTS

The subject property is located within 300 meters of Metrolinx's Guelph Subdivision which carries Metrolinx's Kitchener GO Train service.

As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The

applicant may contact Derek.Brunelle@metrolinx.com with questions and to initiate the registration process.

The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor:

“Warning: The Applicant is advised that the subject land is located within Metrolinx’s 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.”

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 2019-051*

ATTACHMENTS:

Attachment A – Lot Severance Sketch