

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: August 15, 2023

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

PREPARED BY: Eric Schneider, Senior Planner, 519-741-2200 ext. 7843

WARD(S) INVOLVED: Ward 9

DATE OF REPORT: August 2, 2023

REPORT NO.: DSD-2023-346

SUBJECT: Consent Application B2023-027 – 100 and 116 Hoffman Street

RECOMMENDATION:

That Consent Application B2023-027 for 100 and 116 Hoffman Street requesting consent to sever a parcel of land having a lot width of 15.2 metres on Hoffman Street, a lot depth of 38.3 metres and a lot area of 572.3 square metres, municipally known as 116 Hoffman Street, BE APPROVED subject to the following conditions:

1. That the 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 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 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 Owner shall:
 - a) complete a Building Code Assessment for the existing buildings proposed to be retained on the Severed and Retained parcels of land, prepared by a qualified person, to confirm that the proposed property line and any of the building adjacent to this new property line complies with the Ontario Building Code, to the satisfaction of the City's Chief Building Official. The assessment

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

shall address items such as, but not limited to, spatial separation of existing buildings' wall face, and shall include recommendations such as closing in of openings pending spatial separation calculation results.

b) A Building Permit shall be obtained for any remedial work/ upgrades required by the Building Code Assessment.

5. That, prior to final approval, the Owner submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
6. That the existing shed/accessory structure located across the proposed property line be removed or relocated to the Severed or Retained lands to the satisfaction of the City's Director of Planning.
7. That the owner must submit a valid Notice of Source Protection Plan Compliance (Section 59 Notice) as per the Clean Water Act, 2006.
8. The Owner enter into a registered agreement with the City of Kitchener to provide that the following noise warning clause be included in all offers to purchase and/or rental agreements for the Severed and Retained lands:

“Purchaser/tenants are advised that sound levels due to increasing road traffic on the municipal street system and any potential stationary noise sources in the vicinity, e.g. rooftop mechanical equipment, may on occasion interfere with some activities of the occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP).”

REPORT HIGHLIGHTS:

- The purpose of this report is to review an application for consent to create a new lot in order to separate a lot containing an existing detached dwelling which has merged with a lot containing a religious institution.
- 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 on the North side of Hoffman Street between Kehl Street and Meinzingen Avenue.



Figure 1: Location of Subject Property

The subject lands at 110 Hoffman (religious institution) are identified as 'Major Transit Station Areas' on Map 2 – Urban Structure and designated 'Institutional' on Map 3 – Land Use in the City's 2014 Official Plan.

The subject lands at 116 Hoffman (residential detached dwelling) are identified as 'Community Areas' on Map 2 – Urban Structure and designated 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan.

The property at 110 Hoffman is zoned 'Neighbourhood Institutional (INS-1)' in Zoning By-law 2019-051.

The property at 116 Hoffman is zoned 'Low Rise Residential Five Zone (RES-5)' in Zoning By-law 2019-051.

The purpose of the application is to legally separate the residential lands from the lands being used as a religious institution, for separate ownership, in order that they may be dealt with independently.

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 (PPS 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 separate ownership of the existing residential dwelling. No new development is proposed. Planning staff is of the opinion that this proposal is consistent with the PPS.



Figure 3: View of Existing Religious Institution (July 27, 2023)

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

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.

The subject lands are located within the City's delineated Built-Up Area. 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.



Figure 4: View of Detached Dwelling (July 27, 2023)

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 application 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.

City's Official Plan (2014)

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 will meet the minimum 'RES-5' zone lot width for detached dwellings and the minimum lot size requirements for a religious institution for the 'INS-1' lands. 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. 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 at 110 Hoffman is zoned 'Neighbourhood Institutional (INS-1)' in Zoning By-law 2019-051.

The property at 116 Hoffman is zoned 'Low Rise Residential Five Zone (RES-5)' in Zoning By-law 2019-051.

Both proposed lots meet the zoning regulations for lot size in their respective zoning categories. The current uses are not proposed to change and no development is to occur. Planning Staff are of the opinion that the proposed consent application conforms to the Zoning By-law.

Planning Conclusions/Comments:

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 lots are desirable and appropriate.



Figure 5: View of Existing Lot 110-116 Hoffman Street (July 27, 2023)

Environmental Planning Comments:

No Natural Heritage issues. No tree concerns as no site development is proposed.

Heritage Planning Comments:

No Heritage Planning concerns.

Building Division Comments:

The Building Division has no objections to the proposed consent provided:

1. A qualified designer is retained to complete a building code assessment as it relates to the new proposed property line and any of the building adjacent to this new property line shall address such items as: Spatial separation of existing buildings' wall face to the satisfaction of the Chief Building Official. Closing in of openings may be required, pending spatial separation calculation results.
2. A building permit shall be obtained for any remedial work/ upgrades that may be required by the building code assessment.

Engineering Division Comments:

Each parcel has existing individual service connections; therefore Engineering has no comments.

Parks/Operations Division Comments:

Parkland dedication is not required for this application as the existing dwelling, properties and uses are existing.

Transportation Planning Comments:

Transportation Services have no concerns with this application.

Region of Waterloo Comments:Corridor Planning

The existing uses on the severed and retained lands are considered sensitive uses under the MECP NPC-300 noise guidelines and the Region's noise guidelines. These noise sources include road traffic and stationary noise from adjacent rooftop mechanical/HVAC systems. Regional staff is recommending a noise warning clause be included in a registered agreement between the City and the applicant, to advise purchasers and tenants of potential noise concerns.

The following noise warning clause is recommended on the severed and retained Parcels:

“Purchaser/tenants are advised that sound levels due to increasing road traffic on the municipal street system and any potential stationary noise sources in the vicinity, e.g. rooftop mechanical equipment, may on occasion interfere with some activities of the occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP).”

Alternatively, the owner may undertake and implement a detailed environmental (transportation & stationary) noise study and implement the same through a registered agreement with the City.

Airport Zoning (Advisory Comments)

The applicant must be advised that the subject lands are located within the airport zoning-regulated area and specifically under the runway take-off approach surface. Therefore, the lands and the proposed development are subject to all provisions and restrictions of

Airport Zoning regulations and Nav Canada. For further information in this regard, please contact: Jordan Vander Veen, Project Manager, Airport Construction and Development 519.648.2256 ext. 8514 Email: jvanderveen@regionofwaterloo.ca

Source Water Protection

For information, the property is designated a Wellhead Protection Sensitivity Area 7 & 8 on Map 6a in the Regional Official Plan (ROP). The purpose of this designation and the corresponding policies in Chapter 8 of the ROP is to protect long term municipal groundwater supplies.

Notice of Source Protection Plan Compliance (Section 59 Notice)

As the subject lands are also located in a Source Protection Area where Grand River Source Protection Plan policies implemented by the Region of Waterloo apply. Per s.59 of the Clean Water Act, 2006 a Notice of Source Protection Plan Compliance is required as part of a complete application submission.

To apply for a Notice of Source Protection Plan Compliance (Section 59 Notice) the owner/applicant must complete the questionnaire at <https://taps.regionofwaterloo.ca/> listing all applicable activities prescribed under the Clean Water Act related to the application. A Notice will only be considered valid if the following criteria are met;

- Applicant has signed the Notice;
- Address and application type on the Notice match the rest of the application; and
- All activities related to the proposed application are listed in Schedule 1.

Invalid Notices will not be accepted and may result in delayed approvals.

Regional Fee

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

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

1. The owner/applicant is required to submit the Regional consent review fee of \$350.00 prior to final approval of the consent.
2. The owner/applicant must submit a valid Notice of Source Protection Plan Compliance (Section 59 Notice) as per the Clean Water Act, 2006.
3. The owner/applicant enter into a registered agreement with the City of Kitchener to provide that the following noise warning clause be included in all offers to purchase and/or rental agreements for the severed and retained lands,

“Purchaser/tenants are advised that sound levels due to increasing road traffic on the municipal street system and any potential stationary noise sources in the vicinity, e.g. rooftop mechanical equipment, may on occasion interfere with some activities of the occupants as the sound levels exceed the sound level limits of the

Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP).”

Hydro One Comments:

We are in receipt of your Application for Consent, B-2023-027 dated July 20th, 2023. We have reviewed the documents concerning the noted Application and have no comments or concerns at this time. Our preliminary review considers issues affecting Hydro One’s ‘High Voltage Facilities and Corridor Lands’ only.

For proposals affecting ‘Low Voltage Distribution Facilities’ please consult your local area Distribution Supplier.

GRCA Comments:

GRCA has no objection to the approval of the above applications. The subject properties do not contain any natural hazards such as watercourses, floodplains, shorelines, wetlands, or valley slopes. The properties are not subject to Ontario Regulation 150/06 and, therefore, a permission from GRCA is not required.

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:

No attachments.