

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: Craig Dumart, Senior Planner, 519-741-2200 x 7073

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: August 4, 2023

REPORT NO.: DSD-2023-347

SUBJECT: Consent Applications B2023-030 and B2023-031
83 and 87 Victoria Street North

RECOMMENDATION:

- A. That Consent Application B2023-030 for 83 Victoria Street North requesting consent to sever a parcel of land having a lot width of 10.2 metres, a lot depth of 17, metres and a lot area of 173.6 square metres, 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 enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor, to the satisfaction of the City Solicitor and Director of Planning, and registered on title to the "Retained Lands" (Part 3 as shown in the draft reference Plan, prepared by MTE, dated June 6, 2023, attached to Report DSD-2023-347 (the "Draft R-Plan"), and Part 4 on the Draft

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

R-Plan, and Lot 71 Registered Plan 374 (97 Victoria Street North), to provide the following:

That title to the Retained Lands and Part 4 on the Draft R-Plan and Lot 71 Registered Plan 374 (97 Victoria Street North) shall at all times be maintained in identical ownership and said lands shall be treated as one lot or parcel with respect to the Planning Act and none of the Retained Lands, Part 4 on the Draft R-Plan or Lot 71 Registered Plan 374 (97 Victoria Street North) shall be separately conveyed, or otherwise dealt with, without the prior consent of the City of Kitchener, with the criteria for granting or withholding such consent to be the applicable considerations to be applied if a consent for severance was applied for under the Planning Act, as if section 50 (3) and/or section 50 (5) of that statute applied to such conveyance or dealing.

- 5. That the owner's Solicitor shall provide a Solicitor's Undertaking to register an Application Consolidation Parcels for the Retained Lands, Part 4 on the Draft R-Plan, and Lot 71 Registered Plan 374 (97 Victoria Street North) immediately following the registration of the Severance Deed and prior to any new applicable mortgages, and to provide a copy of the registered Application Consolidation Parcels to the City Solicitor within a reasonable time following registration.**
- 6. 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 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.**
- 7. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.**
- 8. That prior to final approval, 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.**
- 9. That prior to final approval, 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.”

- B. That Consent Application B2023-031 for 87 Victoria Street North requesting consent to sever a parcel of land having a lot width of 27 metres, a lot depth of 20, metres and a lot area of 542.4 square metres, 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 enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor, to the satisfaction of the City Solicitor and Director of Planning, and registered on title to the “Retained Lands” (Part 4 as shown in the draft reference Plan, prepared by MTE, dated June 6, 2023, attached to Report DSD-2023-347 (the “Draft R-Plan”), and Part 3 on the Draft R-Plan, and Lot 71 Registered Plan 374 (97 Victoria Street North), to provide the following:**

That title to the Retained Lands and Part 3 on the Draft R-Plan and Lot 71 Registered Plan 374 (97 Victoria Street North) shall at all times be maintained in identical ownership and said lands shall be treated as one lot or parcel with respect to the Planning Act and none of the Retained Lands, Part 3 on the Draft R-Plan or Lot 71 Registered Plan 374 (97 Victoria Street North) shall be separately conveyed, or otherwise dealt with, without the prior consent of the

City of Kitchener, with the criteria for granting or withholding such consent to be the applicable considerations to be applied if a consent for severance was applied for under the Planning Act, as if section 50 (3) and/or section 50 (5) of that statute applied to such conveyance or dealing.

5. That the owner's Solicitor shall provide a Solicitor's Undertaking to register an Application Consolidation Parcels for the Retained Lands, Part 3 on the Draft R-Plan, and Lot 71 Registered Plan 374 (97 Victoria Street North) immediately following the registration of the Severance Deed and prior to any new applicable mortgages, and to provide a copy of the registered Application Consolidation Parcels to the City Solicitor within a reasonable time following registration.
6. 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 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.
7. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
8. That prior to final approval, 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.
9. That prior to final approval, 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 purpose of this report is to recommend approval of the proposed consent applications to create new lot fabrics at 83 and 87 Victoria Street North and bind the two retained parcels with the property municipally known as 97 Victoria Street North, to permit the creation of a new affordable housing project.
- Community engagement included circulation of the application via mail, notification by way of the Record and signage placed on the property.
- There are no financial implications.
- This report supports the delivery of core services

BACKGROUND:

In January of 2023 the Committee of Adjustment approved Minor Variance Applications A2023-011, A2023-012 and A2023-013, and Consent Applications B2023-002 and B2023-003 at 83, 87, and 97 Victoria Street North for the 'KW Working Centre for the Unemployed' to facilitate an affordable housing project with ancillary services. Two Consent Applications for lot additions with applicable minor variances were approved to add lands from 83 and 87 Victoria Street North to 97 Victoria Street North. Since that time the applicant and staff have identified that the lot additions once endorsed would automatically merge on title. To rectify the January 2023 consent applications the applicant has applied for two new consent applications proposing to sever the fronts of 83 Victoria Street North (Parcel 1) and front of 87 Victoria Street North Parcel 2) while the retained lands, the rear of 83 Victoria Street North (Parcel 1) and rear of 87 Victoria Street North (Parcel 2) would bind together with 97 Victoria Street North through an Agreement registered on title. No new minor variance applications are required and Minor Variance Applications A2023-011-013 are in full force and effect.

The subject properties, 83, 87 and 97 Victoria Street North are located near the intersection of Victoria Street North and Weber Street West with frontage on both Victoria Street North and Heit Lane. 83 Victoria Street North is currently developed with a community dental clinic, 87 Victoria Street North is currently developed with a residential care facility and 97 Victoria Street North is currently developed with a retail store and community kitchen. All three properties are owned and operated by the 'KW Working Centre for the Unemployed' which operate as one "campus" providing shelter, social and health services. The existing development of the neighbourhood consists of commercial buildings, multiple dwellings, single detached dwellings, institutional buildings and industrial buildings. Lot sizes vary in width, depth, and area in this neighborhood.

City Planning staff conducted a site inspection of the property on July 28, 2023.



Figure 1 - Location Map: 83 and 87 Victoria Street North

The subject properties are identified as 'Urban Growth Centre' on Map 2 – Urban Structure and are designated 'Innovation District' on Map 4 – Urban Growth Centre in the City's 2014 Official Plan.

The properties are currently zoned 'Warehouse District Zone (D-6) with Special Regulation 105R, Special Uses 116U and 403U Holding Provision 10H and 14T' in Zoning By-law 85-1.

Minor variance applications were approved in January 2023 (A2023-011 to 013) for each property to legalize lot widths, building façade heights, setbacks and parking requirements.

The purpose of this report is to recommend approval of the proposed consent applications to create new lot fabrics at 83 and 87 Victoria Street North and bind the two retained parcels with 97 Victoria Street North applications to permit the creation of a new affordable housing project.

The severed lot creating a new lot fabric at 83 Victoria Street South would have a lot frontage on 10.2 metres, a lot depth of 17 metres and an area of 173.6 square metres. The severed lot creating a new lot fabric at 87 Victoria Street South would have a lot frontage on 27 metres, a lot depth of 20 metres and an area of 542.4 square metres while the two retained parcels of lands would bind together with 97 Victoria Street North through an Agreement registered on title.



Figure 2 – Existing buildings at 83 and 87 Victoria Street North

Victoria St N

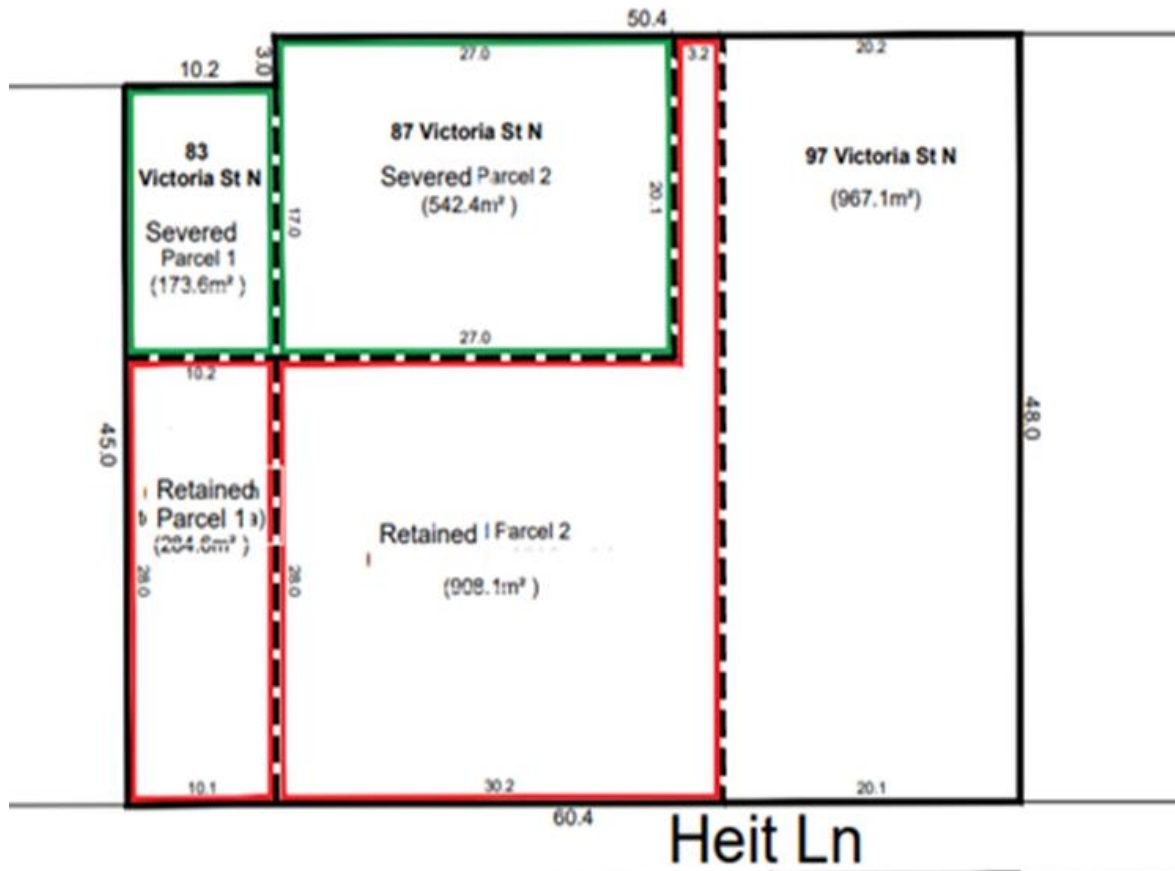


Figure 3 – Proposed Severance Sketch

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 this proposal is consistent with the PPS.

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 located within the City's delineated Urban Growth Centre (UGC), and within a Major Transit Station Area (MTSA) in the 2014 Kitchener Official Plan. In the City's OP on Map 2 – Urban Structure the lands appear within the MTSA circle for the Central Station. Urban Growth Centres plan to accommodate significant population and employment growth. and the severance 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 Urban Growth Centre in the ROP. 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. The Region has indicated that they have no objections to the proposed severance applications and provide additional ROP commentary with respect to natural heritage, servicing and noise in the attached Region of Waterloo comments. Planning staff are of the opinion that the severance applications conform to the Regional Official Plan.

City's Official Plan (2014)

The subject properties are identified as 'Urban Growth Centre' on Map 2 – Urban Structure and are designated 'Innovation District' on Map 4 – Urban Growth Centre in the City's 2014 Official Plan.

Section 17.E.20.4 of the Official Plan implements Section 51 of the Planning Act and contains policies regarding boundary adjustments and conveying additional lands to an abutting lot provided an undersized lot is not created. The proposed severance is in accord with this aspect of the plan and maintains the residential land use designation.

Planning staff is of the opinion that the size, dimension and shape of the lots are result of the severance applications are suitable for the use of the lands and compatible with the surrounding neighbourhood, which is developed with commercial buildings, industrial buildings, institutional buildings, single detached, semi detached and multiple dwellings all 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 severances conform with the City of Kitchener Official Plan.

Zoning By-law

The properties are currently zoned 'Warehouse District Zone (D-6) with Special Regulation 105R, Special Uses 116U and 403U Holding Provision 10H and 14T' in Zoning By-law 85-1.

Minor variance applications were approved in January 2023 (A2023-011 to 013) for each property to legalize lot widths, building façade heights, setbacks and parking requirements.

Planning staff is 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. The subject lands all front onto a public street and full services are available for the lands.

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. The future use 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, that natural resources are conserved and that there are adequate services for the lands. 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 have no concerns.

Heritage Planning Comments:

The property municipally addressed as 97 Victoria Street North is listed as a property of cultural heritage value or interest on the Kitchener Municipal Heritage Register. A Heritage Impact Assessment (HIA) has been submitted as part of an active planning application for 97 Victoria Street North and is currently under review. Heritage Planning staff have no concerns or issues with these applications.

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:

Engineering staff have no concerns.

Parks/Operations Division Comments:

Parks and Operations staff have no concerns.

Transportation Planning Comments:

Transportation Services have no concerns with the proposed applications.

Region of Waterloo Comments:

Region of Waterloo staff have no concerns.

Metrolinx Comments:

Metrolinx is in receipt of the consent applications for 83 and 87 Victoria St N, Kitchener, to permit the severance of the lot to facilitate a lot addition. Metrolinx's comments on the subject application are noted below:

- The subject properties are located within 300 m 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 Farah.Faroque@metrolinx.com with questions and to initiate the registration process. (It should be noted that the registration process can take up to 6 weeks).
- Metrolinx notes that they are a stakeholder that has provided comments on the comprehensive application including Site Plan Application. If the easement has not yet been initiated, please do so by contacting the above. If the easement has already been initiated or completed, please provide the Transfer Easement document for confirmation.
- 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 85-1*
- *DSD-2023-040*

ATTACHMENTS:

Attachment A – Draft Reference Plan