

# Staff Report



Development Services Department

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**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** October 17, 2023

**SUBMITTED BY:** Tina Malone-Wright, Supervisor, Development Applications  
519-741-2200 ext. 7765

**PREPARED BY:** Tim Seyler, Senior Planner, 519-741-2200 ext. 7860

**WARD(S) INVOLVED:** Ward 5

**DATE OF REPORT:** October 4, 2023

**REPORT NO.:** DSD-2023-449

**SUBJECT:** Consent Application B2023-038 – 265 Cotton Grass Street

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## RECOMMENDATION:

That Consent Application B2023-038 requesting consent to sever a parcel of land having a lot width of 50 metres, a lot depth of 72 metres and a lot area of 3,477 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, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
5. That prior to final approval, the owner/applicant submits a valid Section 59 Notice.
6. That prior to final approval, the owner enters into a registered agreement with the City of Kitchener for the severed parcel to implement the recommendations

of the accepted noise study, Noise Feasibility Study, Proposed Residential Development, 265 Cotton Grass Street, Kitchener, Ontario (Prepared by HGC, May 1, 2023), and Addendum (Prepared by HGC, May 1, 2023), specifically that:

- a) That all dwelling units on the severed parcel be constructed with an air-ducted heating system suitably sized and designed to provide for the future installation of a central air conditioning system at the owner's discretion.
- b) That the owner agrees to include the following warning clause in all offers to purchase and/or rental agreements:
  - i) *“Purchasers/tenants are advised that sound levels due to increasing road traffic may on occasion interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks.”*
  - ii) *“This dwelling unit has been supplied with a central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Region of Waterloo and the Ministry of the Environment, Conservation and Parks.”*
  - iii) *“Purchasers/tenants are advised that due to the proximity of this development to nearby commercial/retail facilities, sound levels from the facilities may at times be audible.”*

#### **REPORT HIGHLIGHTS:**

- The purpose of this report is to review an application for consent to create a new lot in order to construct 28 dwelling units in the form of stacked townhouses. The retained lot will remain commercial.
- 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 south side of Cotton Grass Street, directly adjacent to the commercial plaza. The surrounding neighbourhood consists of a variety of residential uses such as single detached dwellings, semi-detached dwellings and multiple dwellings that vary in lot and area. The property recently received Council approval in April 2023 through Official Plan Amendment OPA22/015/C/KA and Zoning By-law Amendment ZBA22/026/C/KA to permit the multiple dwelling use on the property as well as other site specific setbacks, parking rate, etc.



**Figure 1: Location Map – 265 Cotton Grass Street**

The subject property is identified as ‘Community Node’ on Map 2 – Urban Structure and is designated ‘Commercial’ on Map 3 – Land Use, with Specific Policy Area 61 in the City’s 2014 Official Plan.

The property is zoned ‘Neighbourhood Shopping Centre Zone (C-2) with Special Regulation Provision 356R, Special Use Provision 483U, and Special Regulation Provision 787R’ in Zoning By-law 85-1.

The purpose of the application is to sever the residential use containing the 28 stacked townhouse units from the remaining commercial portion of the lands. The existing lot is currently vacant and the commercial uses will remain on the retained lands.

The severed lot would have a lot frontage of 50 metres, a lot depth of 72 metres and an area of 3,477 square metres, while the retained lot would have a lot frontage of approximately 75 metres, a lot depth of 183 metres and an area of 10,714 square metres.

Staff conducted a site visit to the subject property on September 28, 2023.



Figure 2: Vacant lot – Currently under development

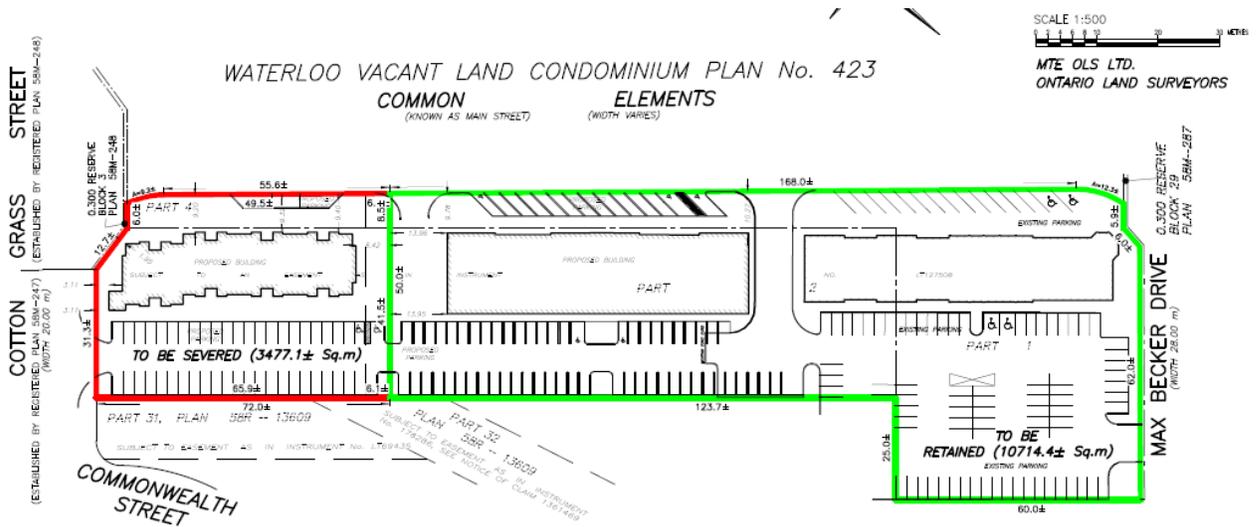


Figure 3: Severance Sketch

## **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 (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 a form of gentle intensification of the subject property with the creation of new lot for 28 stacked townhouse dwelling units 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

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 gentle 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.C.2 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)

The subject property is identified as 'Community Node' on Map 2 – Urban Structure and is designated 'Commercial' on Map 3 – Land Use, with Specific Policy Area 61 in the City's Official Plan.

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 width and lot area of the proposed severed and retained lots meet the minimum requirements within the zoning. 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 85-1

The property is zoned 'Neighbourhood Shopping Centre Zone (C-2) with Special Regulation Provision 356R, Special Use Provision 483U, and Special Regulation Provision 787R' in Zoning By-law 85-1. Special Use Provision 483U permits the 100% residential building on the subject lands, while Special Regulation Provision 787R permits a minimum lot area of 3,400 square meters, dwelling units of the ground floor, updated setbacks, and updated parking rates.

The proposed lot widths and lot areas of the proposed severed and retained lots meet the minimum lot width and lot area requirements.

#### **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 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:**

No comments. Any Environmental concerns have been addressed through SP22/184/C/KA.

#### **Heritage Planning Comments:**

No heritage planning concerns.

#### **Building Division Comments:**

The Building Division has no objections to the proposed consent.

#### **Engineering Division Comments:**

All engineering conditions have been addressed through SP22/184/C/KA.

#### **Parks/Operations Division Comments:**

Despite 273.1.4.2 of Bylaw 2022-101, the commercial land use that was originally anticipated through the subdivision and for which park dedication has been paid through KDA 30T-96005, no additional park dedication is required as the existing C-2 zoning permits dwelling units and the requested Severance does not impact or increase previously approved density.

#### **Transportation Planning Comments:**

Transportation Services have no concerns with this application.

**Region of Waterloo Comments:**

The applicant is proposing to sever an existing lot into two lots with the retained parcel frontage on Max Becker Drive containing an existing commercial building and a proposed new commercial building, and the severed parcel is intended for future development of a residential building.

The subject lands are located within the Designated Greenfield Area as per Map 3a of the Regional Official Plan and are located within Wellhead Protection Sensitivity Area 8 as per Map 6a of the Regional Official Plan.

**Regional Fee:**

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

**Source Protection Plan Compliance (Section 59 Notice):**

The subject lands are located in a Source Protection Area where Risk Management Plan policies implemented by the Region of Waterloo may apply. The owner/applicant must complete the questionnaire on <https://taps.regionofwaterloo.ca/> to obtain a valid Section 59 Notice.

**Environmental Noise:**

Noise Feasibility Study, Proposed Residential Development, 265 Cotton Grass Street, Kitchener, Ontario (HGC, May 1, 2023), and Addendum (HGC, August 1, 2023) has been previously reviewed and accepted by the Region through a letter dated August 14, 2023. The owner must enter into a registered agreement with the City of Kitchener for the severed parcel to implement the noise study recommendations as follows:

- 1) That all dwelling units on the severed parcel be constructed with an air-ducted heating system suitably sized and designed to provide for the future installation of a central air conditioning system at the owner's discretion.
- 2) That the owner agrees to include the following warning clause in all offers to purchase and/or rental agreements:
  - a) *"Purchasers/tenants are advised that sound levels due to increasing road traffic may on occasion interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks."*
  - b) *"This dwelling unit has been supplied with a central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Region of Waterloo and the Ministry of the Environment, Conservation and Parks."*
  - c) *"Purchasers/tenants are advised that due to the proximity of this development to nearby commercial/retail facilities, sound levels from the facilities may at times be audible."*

**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 submits a valid section 59 Notice.
- 3) That prior to final approval, the owner enters into a registered agreement with the City of Kitchener for the severed parcel to implement the recommendations of the accepted noise study, Noise Feasibility Study, Proposed Residential Development, 265 Cotton Grass Street, Kitchener, Ontario (Prepared by HGC, May 1, 2023), and Addendum (Prepared by HGC, May 1, 2023), specifically that:
  - a) That all dwelling units on the severed parcel be constructed with an air-ducted heating system suitably sized and designed to provide for the future installation of a central air conditioning system at the owner's discretion.
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    - iii) *"Purchasers/tenants are advised that due to the proximity of this development to nearby commercial/retail facilities, sound levels from the facilities may at times be audible."*

#### **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 and/or 2019-051*
- *DSD-2023-111*