

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: February 20, 2024

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

PREPARED BY: Brian Bateman, Senior Planner, 519-741-2200 ext. 7869

WARD(S) INVOLVED: Ward 9

DATE OF REPORT: February 2, 2024

REPORT NO.: DSD-2024-075

SUBJECT: Consent Application B2024-003 – 140 Highland Road East

RECOMMENDATION:

That Consent Application B2024-003 for 140 Highland Road East requesting consent to create a triangular-shaped easement having a length of 13 metres along Spadina Road East, 7.6 metres along the shared property line between 140 Highland Road East and 270 Spadina Road East, and having an area of 40.2 square metres for the purposes of providing accessible walkway access in favour of and to 270 Spadina Road East, 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 Director, Development and Housing Approvals:

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

- 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 purpose of this report is to review an application for consent to create an easement to facilitate an accessible access over lands addressed as 140 Highland Road East in favour of 270 Spadina Road East.
- 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 at the northeast corner of Highland Road East and Spadina Road East. It is currently vacant but is proposed to be re-developed with a multiple dwelling having a maximum height of 17 storeys.

The property (270 Spadina Road East) directly adjacent to the subject property contains an existing 6-storey multiple dwelling with a recent building addition almost completed.

The applicant is proposing an access easement over 140 Highland Road East in favour of 270 Spadina Road East, as shown in Figure 2. This is to allow an accessible entrance walkway into the 270 Spadina building entrance.

A triangular-shaped easement is proposed to provide flexibility in the event the entrance walkway needs to be shifted. As can be seen from Figure 1, the grades are a challenge at the entrance location to 270 Spadina Road East in order to provide an accessible access.



Figure 1 – Photo of subject lands – February 2, 2024.

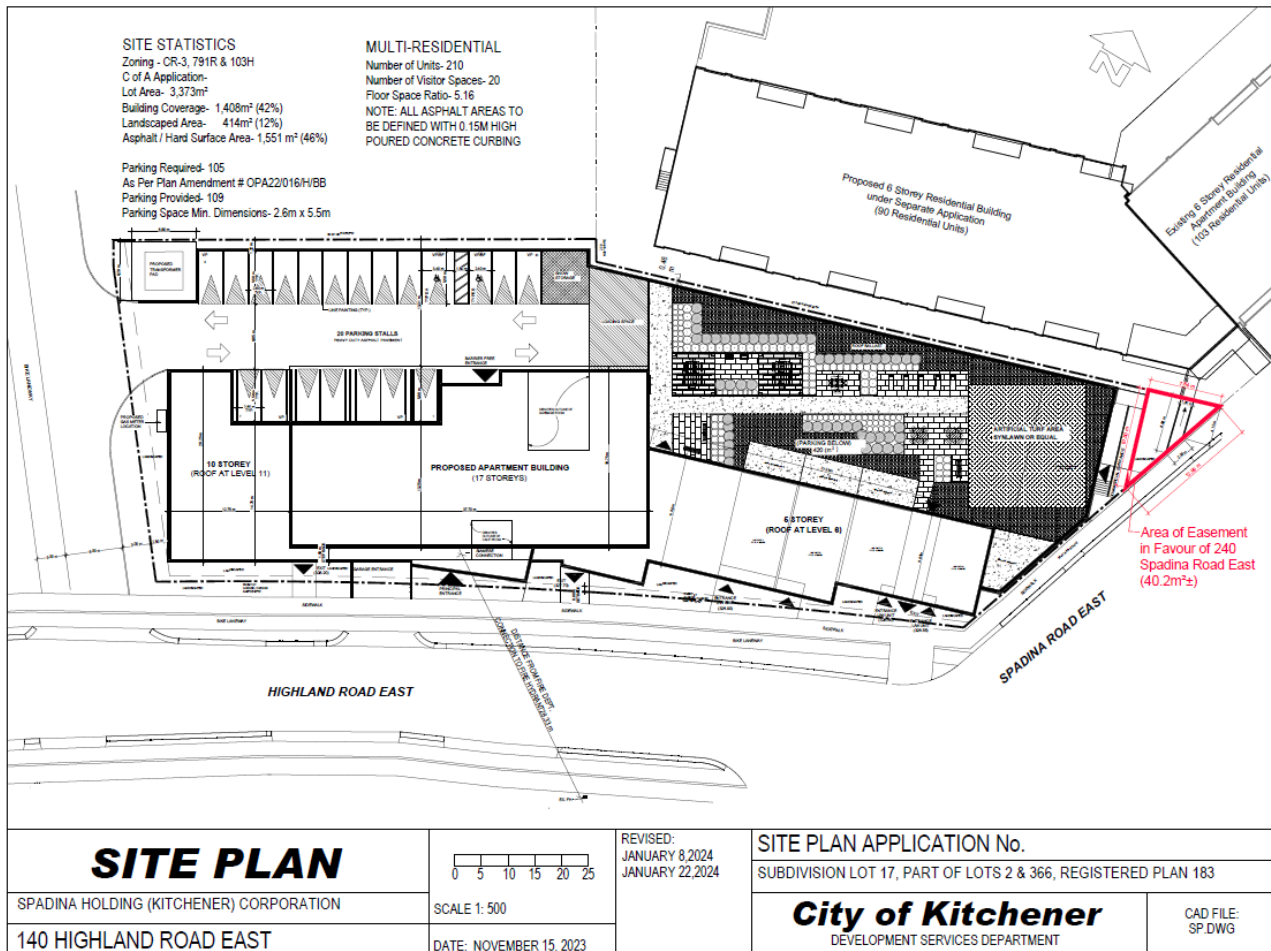


Figure 2 – Proposed Site Plan showing Area of Easement

The subject lands are located within a 'Neighbourhood Node' in the 2014 Kitchener Official Plan. Neighbourhood Nodes are identified as a Secondary Intensification Areas in the City of Kitchener's Official Plan on Map 2 – Urban Structure. Through 2023 Official Plan Amendment and Zoning By-law Amendments Applications, the subject lands were designated 'High Density Commercial Residential' with a Special Policy through OPA 129 within Mill Courtland Woodside Park Secondary Plan to allow for a Floor Space Ratio of 5.17 and a building height of 17 storeys in the building form shown in Figure 2 above. The corresponding zoning is 'Commercial Residential Three Zone (CR-3) with Special Regulation Provision 791R and Holding Provision 103H' in Zoning By-law 85-1.

Site Plan Application SP23/023/S/BB for 270 Spadina Road East to facilitate some minor changes to the grading of the front/principal entrance of the building and the elimination of some of proposed retaining walls is currently under review.

Site Plan Application SP24/007/H/BB for 130-140 Highland Road East, for the lands subject to this Consent Application, is proposing a seventeen (17) storey rental apartment building with 210 dwelling units and is currently under review.

REPORT:

Planning Comments:

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

Provincial policies require 'accessible housing' and encourage a 'Compact Built Form'; land use pattern that encourages the efficient use of land and walkable Neighbourhoods. Walkable neighbourhoods can be characterized by destinations that are easily accessible by transit and active transportation, sidewalks with minimal interruptions for vehicle access, and a pedestrian-friendly environment along roads to encourage active transportation.

The Regional Official Plan supports liveability of our urban areas with design and infrastructure being used to help the region become a desirable, accessible and safe community that places significant importance on providing choice and maintaining and fostering a high quality of life. It is also socially desirable for urban transportation systems and infrastructure to provide affordable, accessible and effective mobility to all members of the community

Policies in the City's Official Plan (2014) support the accessible walkways in Universal and Building Design. Consent is the appropriate process to obtain such an easement over an adjacent property.

Universal Design

11.C.1.16. The City will encourage new sites to be designed, existing sites to be redeveloped, the public realm and community infrastructure to be planned to be barrier-free and universal accessibility by all citizens. In this regard, the

City will enforce the Ontario Building Code and other accessibility related legislation and regulations.

Building Design, Massing and Scale Design

11.C.1.31. The City will ensure new buildings are designed, existing buildings are redeveloped, expanded, converted or renovated to enhance pedestrian and cycling usability, respects and reinforce human scale, create streetscapes that are accessible, safe and have a functional relationship to the street, and contribute to rich and vibrant urban places.

Consents

17.E.20.4. Consents may be permitted for the creation of a new lot, boundary adjustments, rights of-way, easements, long-term leases and to convey additional lands to an abutting lot provided an undersized lot is not created.

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 easement is desirable, appropriate and in the public interest and it will facilitate the development of an accessible walkway access to the building addressed as 270 Spadina Road East.

Environmental Planning Comments:

No concerns.

Heritage Planning Comments:

No concerns.

Building Division Comments:

The Building Division has no objections to the proposed consent.

Engineering Division Comments:

No concerns but the easement should be shown on approved site plan.

Parks/Operations Division Comments:

No concerns and no requirements.

Transportation Planning Comments:

Transportation Services have no concerns with the proposed consent application.

Grand River Conservation Authority:

The GRCA has no objections to the application.

Region of Waterloo Comments:

No concerns and no requirements.

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 2014)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan (ROP)*
- *Official Plan (2014)*
- *Mill Courtland Woodside Park Secondary Plan*
- *Zoning By-law 85-1*