

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: April 16, 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: April 3, 2024

REPORT NO.: DSD-2024-165

SUBJECT: Consent Application B2024-007 – 137 Queen Street South

RECOMMENDATION:

That Consent Application B2024-007 requesting consent to amend Consent Application B2023-015 to replace and expand the approved easement to create two (2) new easements, amended Easement #3 having a width of 3.2 metres, a length of 36.7 metres and an area of 126 square metres and new Easement #4 having a width of 3.2 metres, a length of 20.8 metres and an area of 67.8 square metres, over 137 Queen Street South (being the 'Retained Lands' identified in Consent Application B2023-013) in favour of the 'Severed Lands' identified in Consent Application B2023-014, 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 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:

*** 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).**
- 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.**
- c) **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.**

5. That the Owner submit the required consent review fee of \$350 to the Regional Municipality of Waterloo.

REPORT HIGHLIGHTS:

- The purpose of this report is to recommend approval of a proposed consent application to create two easements over 137 Queen Street South in favour of 15 Church Street – an affordable housing project.
- 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.

Report:

The subject property, municipally known as 137 Queen Street South, is located at the intersection of Queen South and Church Street in downtown Kitchener. The subject properties contain a church, detached dwelling and a vacant proposed re-development site for an affordable housing project. Committee may recall hearing Consent Applications B2023-013, B2023-014 and B2023-015 and Minor Variance Application A2023-039 at the March 21, 2023, meeting setting the framework to divide the church property into 3 separate parcels, together with creation of easements and minor variances, to facilitate the development of an affordable housing project on these lands.



Figure 1 - Location Map for 137 Queen Street South.



Figure 2 - Notice Sign on 137 Queen Street South.



Figure 3 – Plan for Consent Applications B2023-013 to B2023-015.

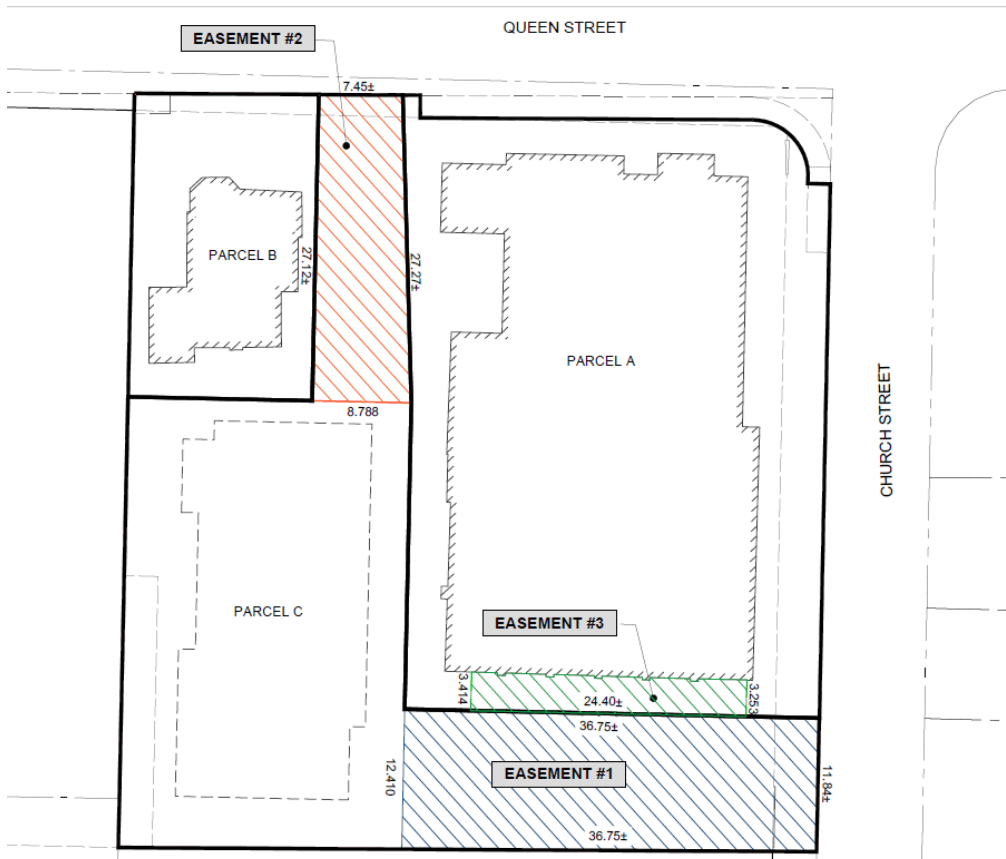


Figure 4 – Plan for Easements Consent Applications B2023-013 to B2023-015

Since that time, the applicant has been working to prepare detailed drawings and finalize the consents so that they can commence with the construction of the affordable housing project. Through the detailed review phase, it was determined that additional expanded easements over 137 Queen Street South are needed to facilitate the re-development scheme. These are shown on Figure 2 below. These are outlined in blue and green and represent expanded easements over what was approved by Committee back in March 2023 for Consent Application B2023-015.

Accordingly, this application for Consent seeks to amend the easement that was requested and approved as part of Consent Application B2023-015.

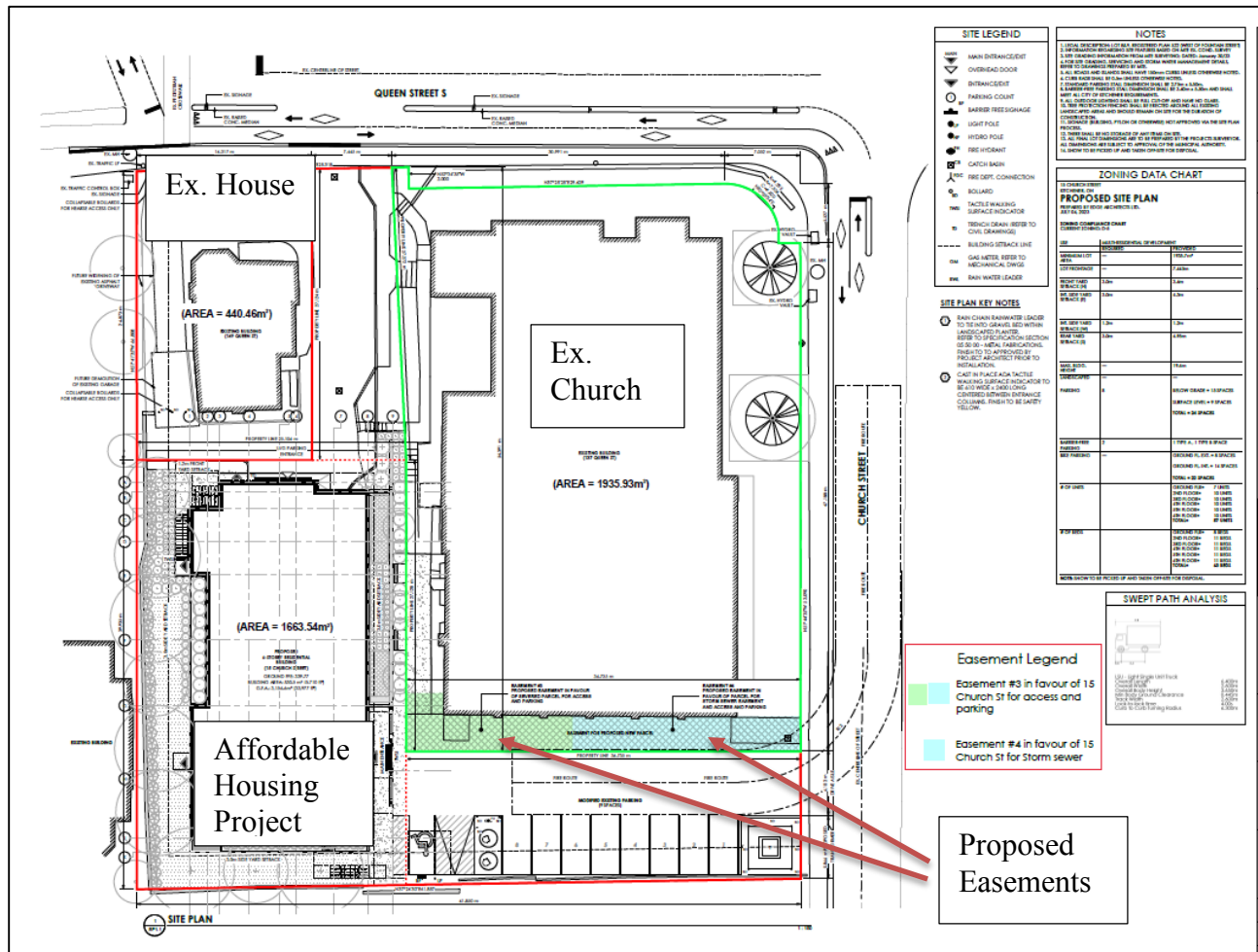


Figure 5 – Site Layout and Proposed easements

The subject properties are identified as ‘Urban Growth Centre’ on Map 2 – Urban Structure and are designated ‘City Center District’ on Map 4 – Urban Growth Centre in the City’s 2014 Official Plan. These have been updated through the Kitchener Growing Together project that was adopted by Council on March 18, 2024. It is not in force and effect until it is approved by the Region. The new designation is ‘Strategic Growth Area B.’

The properties are zoned ‘Commercial Residential Zone (D-5)’ in Zoning By-law 85-1 (in effect). The new zoning is ‘High Rise Growth Zone (Limited) (SGA-3)’ in Zoning By-law 2019-051 (approved). The existing uses and proposed use of a multiple dwelling are permitted in both by-laws.

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, affordable housing 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. 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 consent application to create the easements 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 easement will facilitate the creation of affordable housing.

Planning staff are of the opinion that the consent application conforms to the Regional Official Plan.

City's Official Plan (2014)

Servicing objectives of the City's Official Plan are:

- 14.1.1. To provide infrastructure, municipal services and utilities in a coordinated, efficient and cost-effective manner to meet the City's current and projected needs.
 - 14.1.2. To maximize the use of existing municipal services and utilities before consideration is given to extending and/or developing new municipal services.
 - 14.1.3. To promote cost-effective development patterns and standards to assist in minimizing servicing costs.
- 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 and appropriate.

The future servicing and stormwater design for the benefitting lands will be reviewed and approved in accordance with the applicable provincial, regional and municipal policies. The proposed easement provides flexibility for the applicant to develop servicing and access that connect to and utilizes existing infrastructure and parking.

Heritage Planning Comments:

The subject property municipally addressed as 137 Queen Street South is designated under Part V of the Ontario Heritage Act and identified as a District A Significance property in the Victoria Park Area Heritage Conservation District. The proposed easement is not anticipated to impact identified heritage attributes. There are no further heritage concerns.

Building Division Comments:

No concerns.

Engineering Division Comments:

No concerns.

Parks/Operations Division Comments:

No concerns.

Transportation Planning Comments:

No concerns.

Region of Waterloo Comments:

Regional Fee

Regional Staff are not in receipt of the required consent review fee of \$350. The fee is required as a condition of final approval for the consent application.

Archaeological Assessment

The subject properties municipally addressed as 137 Queen Street South and 149 Queen Street South are located within the Victoria Park Area Heritage Conservation District and

the building are designated under Part V of the Ontario Heritage Act. The requirement for an archaeological assessment is addressed through consent application, B2023-015, concerning the subject lands municipally addressed as 137 Queen Street South, 149 Queen Street South, and 15 Church Street; i.e. condition of approval no. 11, as outlined in the Committee of Adjustment Notice of Decision on March 21, 2023 (Report DSD-2023-123, City of Kitchener).

Regional Staff has no objection to this application subject to the following condition(s):

1. That as a condition of approval the Owner/Applicant submit the required consent review fee of \$350 to the Regional Municipality of Waterloo.

GRCA comments:

No concerns

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)*
- *Kitchener Growing Together DSD-2024-005 and DSD-2024-128*
- *Zoning By-law 85-1 and 2019-051*
- *DSD-2023-123*