

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

WARD(S) INVOLVED: Ward 8

DATE OF REPORT: April 5, 2024

REPORT NO.: DSD-2024-187

SUBJECT: Consent Application B2024-006 – 103 and 105 Dalegrove Drive

RECOMMENDATION:

That Consent Application B2024-006 requesting consent to sever a parcel of land having a lot width of 9.1 metres, a lot depth of 30.9 metres and a lot area of 282 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 the Owner/Applicant submit a Notice of Source Water Protection Plan Compliance, to the satisfaction of the Region.
6. That the Owner/Applicant enter into an agreement with the City of Kitchener to include the following noise warning clause on all Offers of Purchase/Sale and

Lease/Rental Agreements for all dwellings on both the severed and retained lots, to the satisfaction of the City and the Region:

“Warning: Canadian National Railway Company (CNR) or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). The CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.”

REPORT HIGHLIGHTS:

- The purpose of this application is to sever a parcel of land to permit each half of an existing semi-detached dwelling to be dealt with independently.
- The key finding of this report is that the requested severance meets the criteria of the Planning Act and Provincial, Regional and City policies.
- 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 Dalegrove Drive in the Victoria Hills neighbourhood.

The subject property is identified as ‘Community Area’ on Map 2 – Urban Structure and is designated ‘Low Rise Residential’ on Map 3 – Land Use in the City’s 2014 Official Plan.

The property is zoned ‘Low Rise Residential Four Zone (RES-4)’ in Zoning By-law 2019-051.

The purpose of the application is to permit each half of an existing semi-detached dwelling to be dealt with independently.

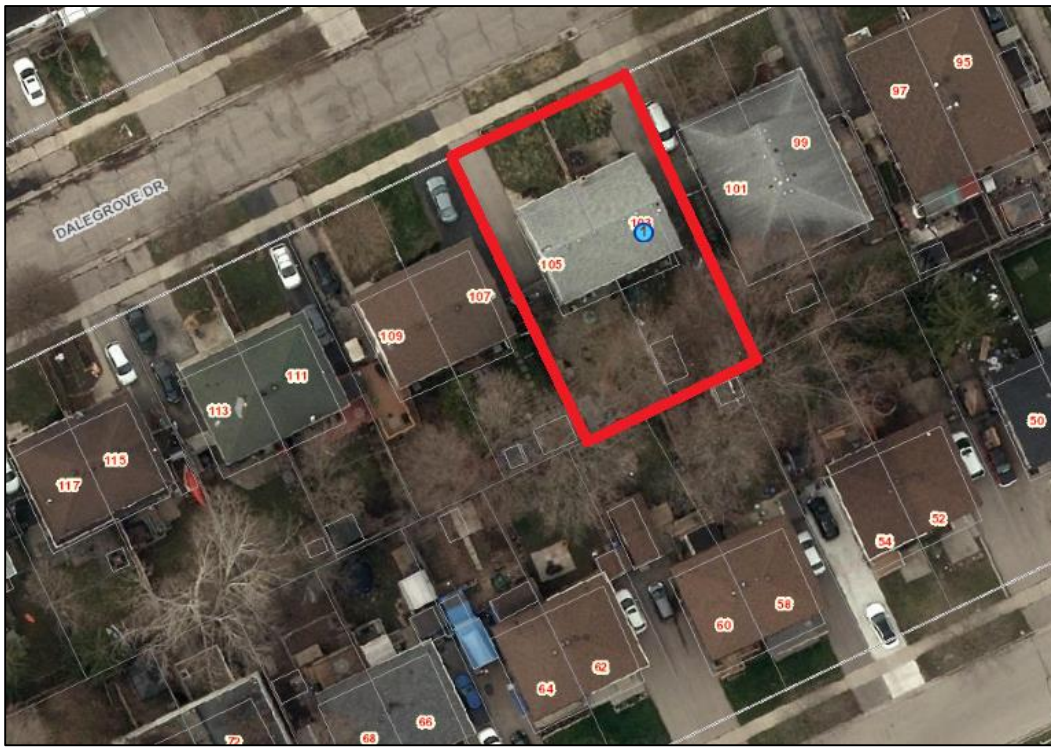


Figure 1: Location Map



Figure 2: View of Existing Semi-Detached Dwelling (March 27, 2024)

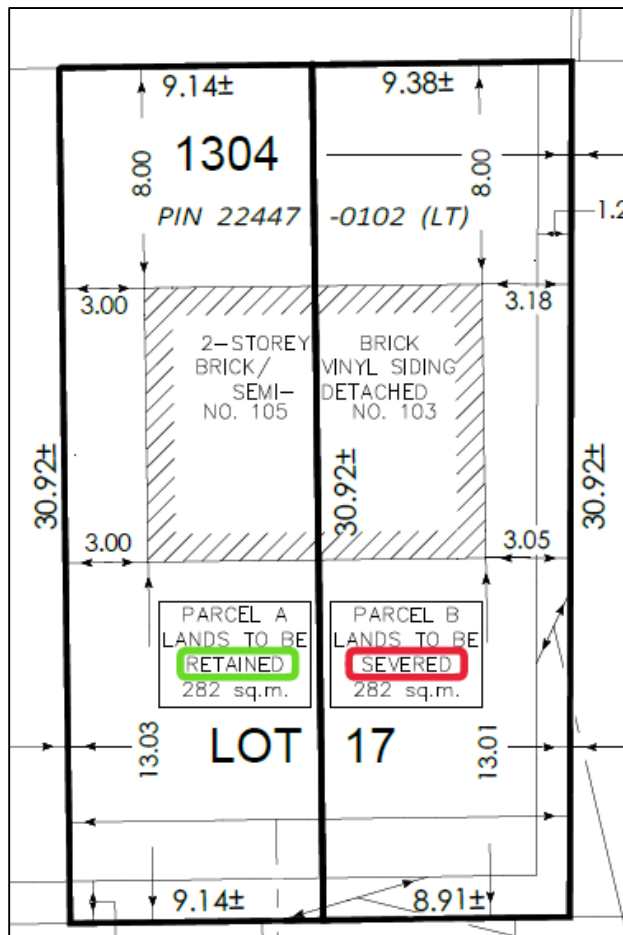


Figure 3: Proposed Lot Fabric

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 promotes an efficient land use pattern. 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 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.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)

The subject lands are designated 'Low Rise Residential' on Map 3 in the 2014 Official Plan. The Low Rise Residential land use designation permits a full range of low density housing types which may include single detached dwellings, semi-detached dwellings, street townhouse dwellings, and low-rise multiple dwellings. The Low Rise Residential land use designation encourages mixing and integrating different forms of housing to achieve and maintain a low-rise built form. The maximum net residential density for lands which are designated Low Rise Residential will be 30 units per hectare.

The proposed severance is in accordance with the Official Plan and maintains the residential land use designation.

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:

“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 meet and exceed the minimum ‘RES-4’ zone lot width and lot area requirements and minor variances are not required. 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 which is developed primarily semi-detached dwellings in the surrounding 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 severance conforms with the City of Kitchener Official Plan.

Zoning By-law 2019-051

The subject property is zoned as ‘RES-4’ in Zoning By-law 2019-051. The ‘RES-4’ zone permits a range of low density dwelling types such as semi detached dwellings and requires a minimum lot width of 7.5 metres and minimum lot area of 210 square metres for semi-detached dwellings. The proposed lot widths and lot areas of the proposed severed and retained lots will exceed the minimum zone lot width and minimum lot area requirement.

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 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 natural heritage or tree management concerns.

Heritage Planning Comments:

No heritage concerns.

Building Division Comments:

The Building Division has no objections to the proposed consent.

Engineering Division Comments:

Engineering has no concerns as both lots are serviced and have existing driveways.

Parks/Operations Division Comments:

Parkland dedication is not required as the use and density is existing.

Transportation Planning Comments:

Transportation Services have no concerns with this application.

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.

Source Water Protection Policy

The subject lands are identified within Source Water Protection Areas subject to the Clean Water Act (Part IV) and Regional policies (WHPA-8) (ROP Map 6a).

A Notice of Source Water Protection Plan Compliance, issued under S. 59(2), is required by the Region to determine whether the proposed activities are subject to S. 57 (Prohibitions) or S. 58 (Risk Management Plan) of the Clean Water Act.

Environmental Noise

The subject lands are located within 300 metres of the Region of Waterloo railway mainline. As a condition of approval, the owner/applicant is required to enter into an agreement with the City of Kitchener to include the following noise warning clause on all Offers of Purchase/Sale and Lease/Rental Agreements for all dwellings on both the severed and retained lots:

“Warning: Canadian National Railway Company (CNR) or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). The

CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.”

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

1. That the Owner/Applicant submit the required consent review fee of \$350 to the Regional Municipality of Waterloo.
2. That the Owner/Applicant submit a Notice of Source Water Protection Plan Compliance, to the satisfaction of the Region.
3. That the Owner/Applicant enter into an agreement with the City of Kitchener to include the following noise warning clause on all Offers of Purchase/Sale and Lease/Rental Agreements for all dwellings on both the severed and retained lots, to the satisfaction of the City and the Region:

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Hydro One Comments:

We are in receipt of your Application for Consent, B2024-006 dated February 23rd, 2024. 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.

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:

Attachment A – Severance Sketch