

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: July 16, 2024

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

PREPARED BY: Arwa Alzoor, Planner, 519-741-2200 ext. 7847; and Andrew Pinnell, Senior Planner, 519-741-2200 ext. 7668

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: July 3, 2024

REPORT NO.: DSD-24-317

SUBJECT: Consent Application B2024-014 - 267 Dumfries Avenue

RECOMMENDATION:

That Consent Application B2024-014 requesting consent to sever a parcel of land having a lot width of 9.7 metres on Dumfries Avenue, a lot depth of 40.5 metres and a lot area of 395.3 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 obtains Demolition Control Approval, in accordance with the City's Demolition Control By-law, to the satisfaction of the City's Director, Development and Housing Approvals.
5. That the Owner obtains a Demolition Permit, for the existing single detached dwelling proposed to be demolished, to the satisfaction of the Chief Building

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

Official, and removes the existing dwelling prior to deed endorsement.

- 6. That the owner shall pay to the City of Kitchener a cash-in-lieu contribution for park dedication of \$11,862.00.**
- 7. The owner shall make financial arrangements to the satisfaction of the City's Engineering Services, for the installation of new service connections to the severed and retained lands.**
- 8. The owner shall prepare a servicing plan showing outlets to the municipal servicing system, to the satisfaction of Engineering Services.**
- 9. The owner shall prepare and submit a Development Asset Drawing (AutoCAD format) for the site with corresponding layer names and asset information, to the satisfaction of the City's Engineering Services.**
- 10. The owner shall make financial arrangements to the satisfaction of the City's Engineering Services for the installation, to City standards, of boulevard landscaping including street trees, and a paved driveway ramp, on the severed and retained lands, or otherwise receive relief from Engineering Services for this requirement.**
- 11. That at the sole option of the City's Director of Development and Housing Approvals, 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 the City's Director of Development and Housing Approvals, which shall include the following:**
 - a) That the owner shall prepare a Tree Preservation Plan for the Severed Lot and Retained Lot, in accordance with the City's Tree Management Policy, to be approved by the City's Director of Development and Housing Approvals, and where necessary, implemented prior to any grading, servicing, tree removal or the issuance of building permits. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, a landscaped area and the vegetation to be preserved. If necessary, the plan shall include required mitigation and or compensation measures.**
 - b) The owner further agrees to implement the approved plan. No changes to the said plan shall be granted except with the prior approval of the City's Director of Development and Housing Approvals.**
- 12. That prior to approval the Owner/Applicant submit the consent review fee of \$350 to the Regional Municipality of Waterloo.**
- 13. That prior to approval, the Owner/Applicant enter into a registered development agreement with the City of Kitchener to implement the following conditions for all dwelling units on both retained and severed lots:**

- a) That the owner/developer agrees to construct the dwelling with forced air-ducted heating system suitably sized and designed with provision for the installation of air conditioning in future, at the occupant's discretion.
- b) That the following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
- i) "The purchasers / tenants are advised that sound levels due to increasing road traffic Conestoga Parkway/Highway 7, as well as commercial land uses in proximity, may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)".
- ii) "This dwelling has been fitted with a forced air-ducted heating system and has been designed with the provision of adding central air conditioning at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)".

REPORT HIGHLIGHTS:

- The purpose of this report is to recommend conditional approval of a consent application to create a new lot to allow the redevelopment of the lands with two Single Detached Dwellings, each with an Additional Dwelling Unit (Attached) – one on each resultant lot.
- 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:

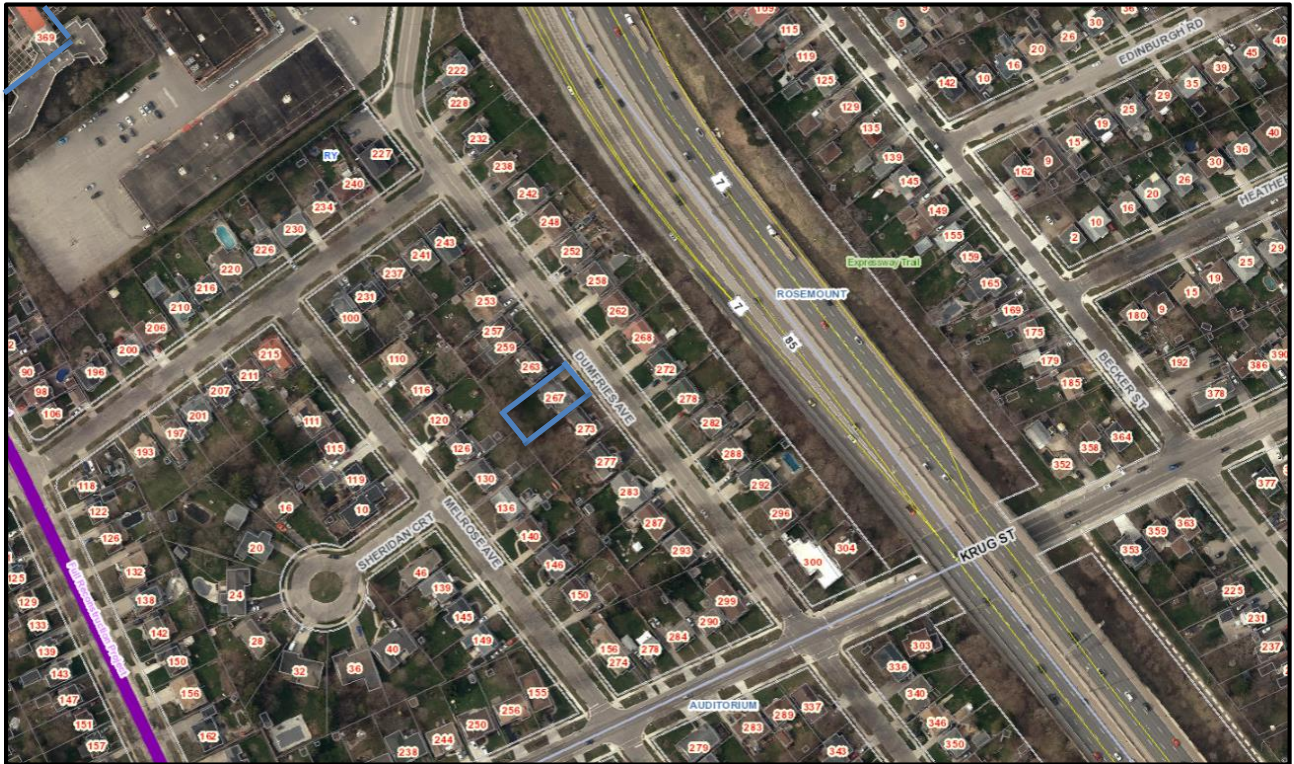


Figure 1: Location Map- 267 Dumfries Avenue

The subject property is located on the west side of Dumfries Avenue, between Chapel Street and Krug Street (south of Frederick Street and the west of the Conestoga Parkway), in the Central Frederick Planning Community. The surrounding lands are composed of low-density residential land uses, primarily single detached dwellings.

The subject property is identified as 'Community Areas' on Map 2 – Urban Structure (2014 Official Plan) and is designated 'Low Rise Conservation A' in the Central Frederick Secondary Plan (1994 Official Plan).

The property is zoned 'Residential Five Zone (R-5)' in Zoning By-law 85-1.

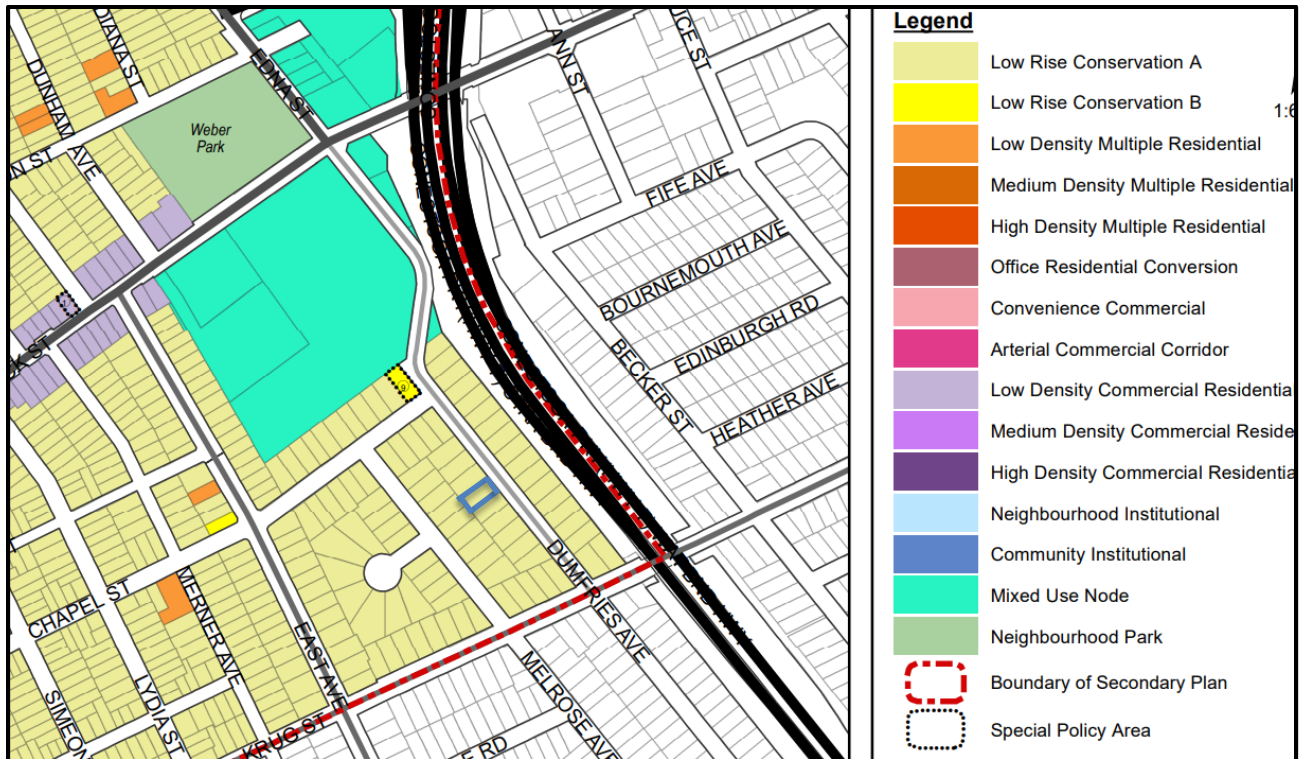


Figure 2: Central Frederick Secondary Plan Map (subject property outlined in blue)

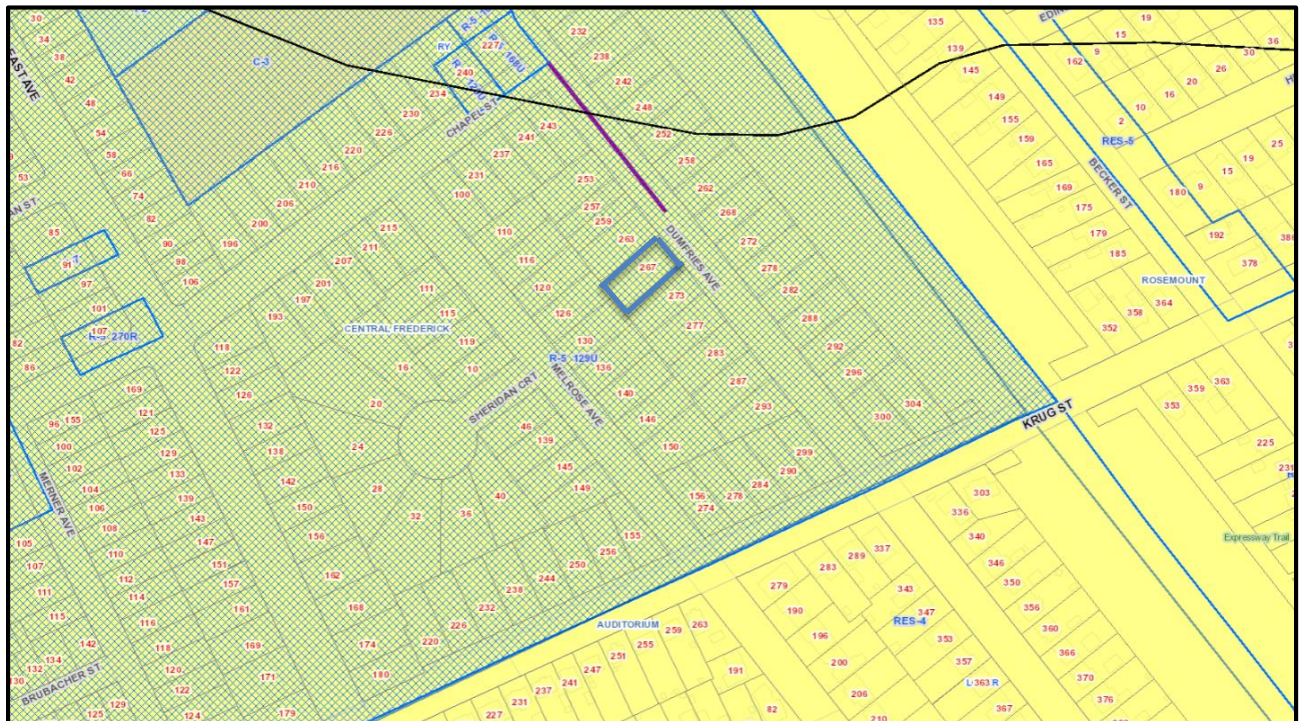


Figure 3 : Surrounding zoning (subject area outlined in blue).

The property contains a single detached dwelling that was constructed in approximately 1954. The applicant is requesting consent to create a new lot with frontage on Dumfries Avenue to facilitate the redevelopment of the lands with two Single Detached Dwellings, each with an Additional Dwelling Unit (Attached) – one on each resultant lot (see Figures 5 through 8 for potential building designs).

The severed lot would have an approximate lot width of 9.7 metres, a depth of 40.5 metres, and an area of 395.3 square metres, as shown in Figure 4. The retained lot would have identical dimensions. No minor variances are required to facilitate the consent application.

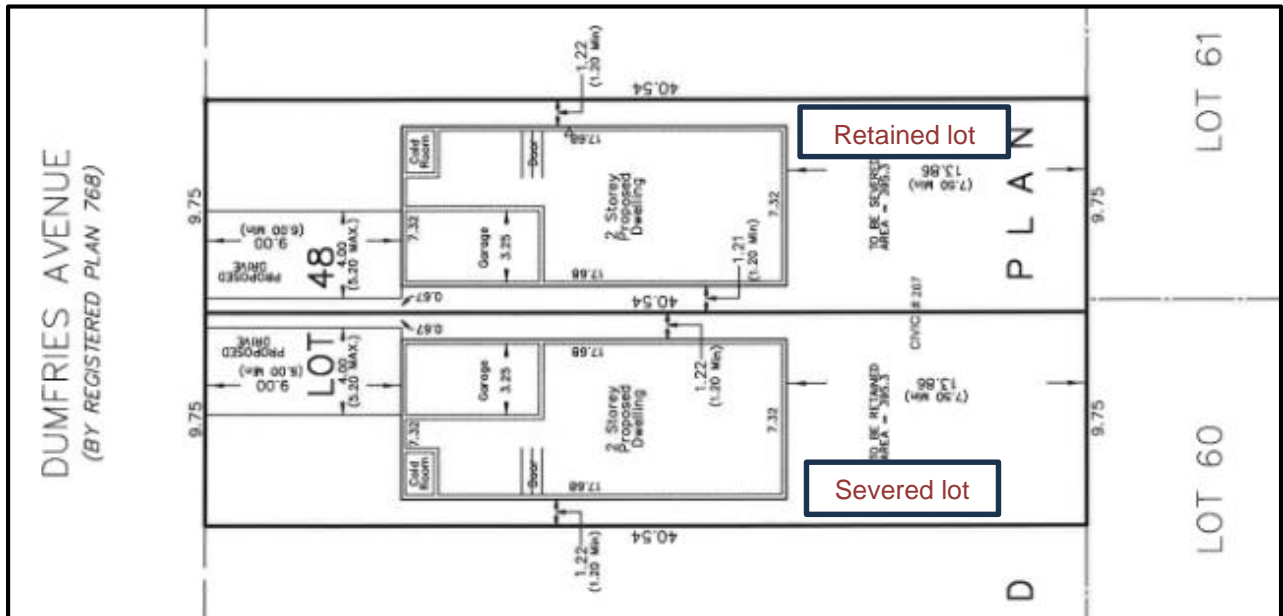


Figure 4: Proposed Lot Fabric

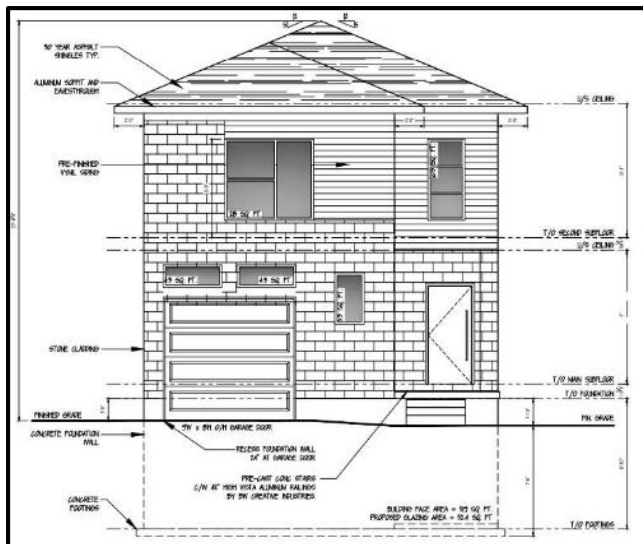


Figure 5: Front Elevation

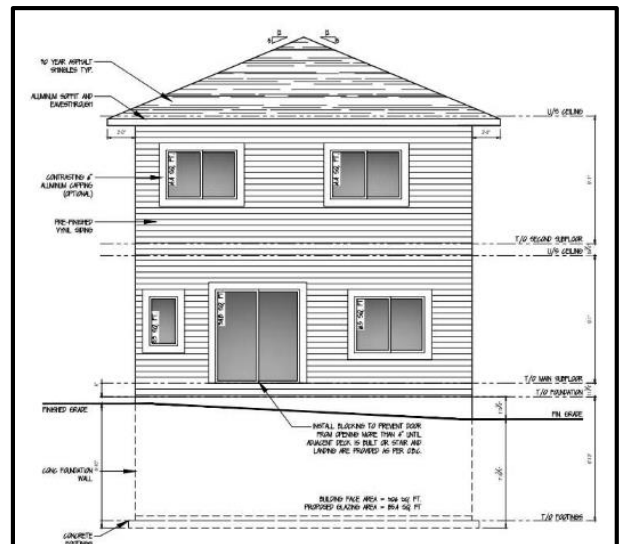


Figure 6: South Elevation

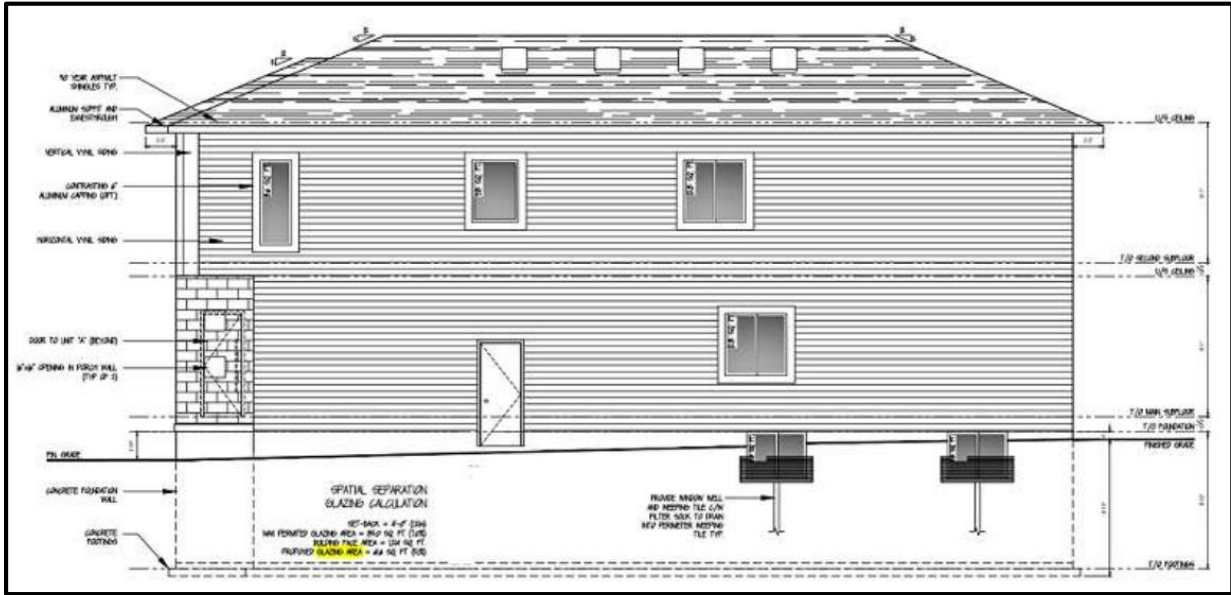


Figure 7: Right Elevation

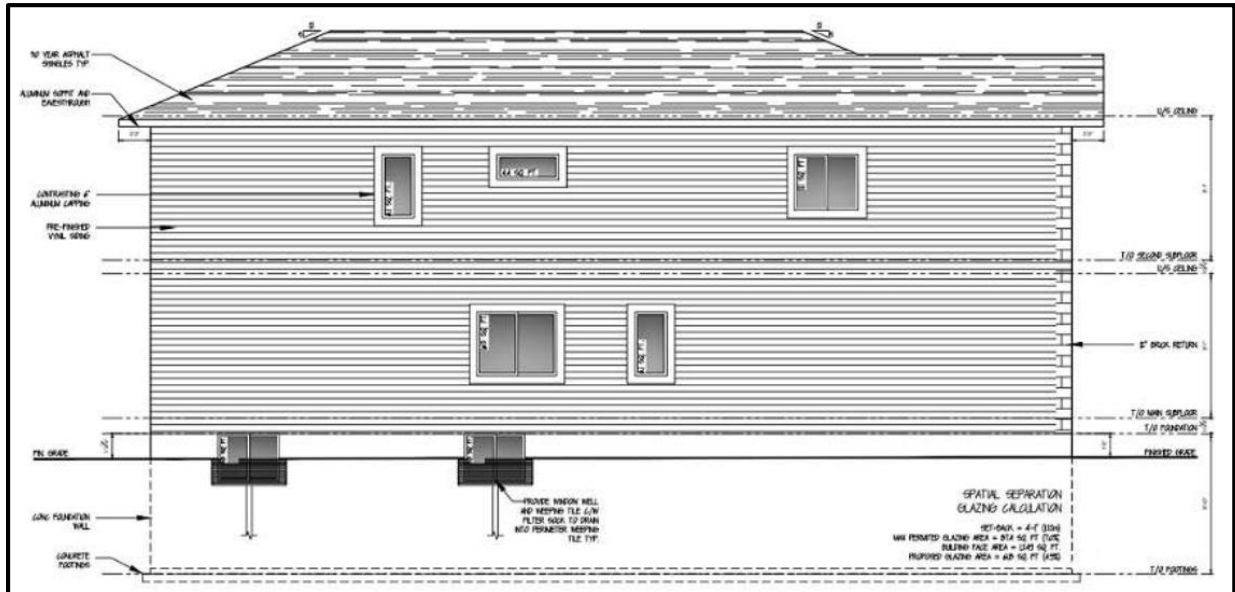


Figure 8: Left Elevation

Planning staff conducted a site visit on June 27th, 2024.



Figure 9: Existing Single Dwelling at 267 Dumfries Avenue

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 a new lot. The proposed Single Detached Dwellings with Additional Dwelling Units (ADUs) (Attached) are compatible with

the surrounding community and will make use of the existing infrastructure. No new public roads would be required for the proposed development. Therefore, staff are 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, trails and parks.

Policy 2.2.6.1(a) states that Municipalities will support housing choice through the achievement of the minimum intensification 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 proposed development represents 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.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 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 Areas' on Map 2 – Urban Structure and is designated 'Low Rise Conservation A' in the Central Frederick Secondary Plan.

As per 19.9.3 1, of the Central Frederick Secondary Plan:

“The intent of the Low Rise Conservation A designation is to preserve the scale, use and intensity of existing development. This designation is applied to those portions of the community where the vast majority of land use is single detached dwellings. The dwellings are in good structural condition, and they are exhibits of the characteristics of a stable family-oriented area.

Permitted uses are restricted to single detached dwellings, semi-detached dwellings, duplex dwellings, small lodging houses, small residential care facilities, private home day care and home businesses, and those triplexes which were in compliance with the

Zoning By-law as of the date of the approval of the original Central Frederick Secondary Plan (June 12, 1989).”

The Central Frederick Secondary Plan is still within the 1994 Official Plan and is dated with respect to most recent Provincial Policy and direction. It is proposed to be updated and consolidated as part of a new Official Plan during the next Official Plan Review. Three and four dwelling units are permitted on every lot in the City subject to meeting all zoning regulations.

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 widths and lot areas of the proposed severed and retained lots comply with the minimum ‘R-5’ zone lot width and lot area requirements and minor variances are not required. The intention of the above noted Official Plan policies is to allow moderate intensification, even if it produces lot sizes which are markedly different than surrounding lot sizes, provided that it does not result in unacceptable adverse impacts / effects on the surrounding lands.

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 with low rise residential uses with lot sizes that vary in width, depth, and

area. The subject 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 to the City of Kitchener Official Plan.

Zoning By-law 85-1

The property is zoned 'Residential Five Zone (R-5)'. The 'R-5' Zone permits a range of low-rise residential dwelling types, including single detached, semi-detached, duplex dwelling and Additional Dwelling (attached and detached). The 'R-5' zone requires a minimum lot width of 9.0 metres and a minimum lot area of 235 square metres for detached dwellings.

It should be noted that the front yard setback from Residential Intensification in Established Neighbourhoods Study (RIENS) Area will apply, requiring the setback for the new dwellings to be based on the average setback of the dwellings on either side of the subject property (rather than a fixed setback).

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:

Environmental Planning has provided the following comments:

1. No natural heritage issues.
2. Standard tree management condition requiring applicant to enter into an agreement to complete a Tree Preservation/Enhancement Plan prior to demolition, building permit etc.

Heritage Planning Comments:

No heritage planning comments or concerns.

Building Division Comments:

The Building Division has no objections to the proposed consent. Region of Waterloo and Area Municipalities' Design Guidelines and Supplemental Specifications for Municipal Services (DGSSMS) allows only one service per lot. Separate building permit(s) will be required for the demolition of the existing building, as well as construction of the new residential buildings.

Engineering Division Comments:

- Severance of any blocks within the subject lands will require separate, individual service connections for sanitary, storm, and water, in accordance with City policies.

- The owner is required to make satisfactory financial arrangements with the Engineering Division for the installation of new service connections that may be required to service this property, all prior to severance approval. Our records indicate sanitary, storm and water municipal services are currently available to service this property. Any further enquiries in this regard should be directed to Nolan Beatty - nolan.beatty@kitchener.ca
- Any new driveways are to be built to City of Kitchener standards. All works are at the owner's expense and all work needs to be completed prior to occupancy of the building.
- A servicing plan showing outlets to the municipal servicing system will be required to the satisfaction of the Engineering Division prior to severance approval.
- A Development Asset Drawing (digital AutoCAD) is required for the new site infrastructure with corresponding layer names and asset information to the satisfaction of the Engineering Division prior to severance approval.
- The owner must ensure that the basement elevation of the building can be drained by gravity to the municipal sanitary sewer. If basement finished floor elevations do not allow for gravity drainage to the existing municipal sanitary system, the owner will have to pump the sewage to achieve gravity drainage from the property line to the municipal sanitary sewer in the right of way.

Parks/Operations Division Comments:

Cash-in-lieu of park land dedication will be required on the severed parcel as 1 new development lot will be created. The cash-in-lieu dedication required is \$11,862.00. Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of 9.7 metres at a land value of \$36,080.00 per frontage meter with a per unit cap of \$11,862.00.

Transportation Planning Comments:

Transportation Services have no concerns with this application.

Region of Waterloo Comments:

The owner/applicant is proposing to sever a residential parcel of land into two lots for development of a duplex dwelling on each lot, being: both severed and retained lands - lot area of 395.3sqm, depth of 40.5m, and frontage of 9.75m. The existing single detached dwelling is proposed to be demolished.

Environmental Noise

The residential dwellings on the severed and the retained lots will be located in close proximity to Conestoga Parkway/Highway 7, as well as commercial land uses. The owner/applicant is required undertake a detailed environmental noise study to assess the environmental noise impacts on the proposed residential dwellings on retained and severed lots. The recommendations of the detailed noise study will be implemented through a registered agreement with the City of Kitchener.

Alternatively, the owner/applicant is required to secure and implement the below conditions through a registered agreement with the City of Kitchener for all dwelling units on both retained and severed lots:

1. The dwelling will be fitted with forced air-ducted heating system suitably sized and designed with provision for the installation of air conditioning in future, at the occupant's discretion.
2. The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
 - i) "The purchasers / tenants are advised that sound levels due to increasing road traffic on Conestoga Parkway/Highway 7, as well as commercial land uses in proximity, may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)".
 - ii) "This dwelling has been fitted with a forced air-ducted heating system and has been designed with the provision of adding central air conditioning at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)".

Regional Consent Review Fee

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

Fees must be paid individually and separately to the Region. Fees can be submitted in-person, by mail, or EFT.

- Arrange EFT by emailing pwalter@regionofwaterloo.ca.
- Cheque or bank draft can be dropped off at Head Office lobby/security (main floor), located at 150 Frederick St, Kitchener. 15 min parking is available at the rear of the building, outside the Kitchener Public Library, at the intersection of Queen St N and Ahrens St E.
- Cheque or bank draft can be mailed as follows: Attention of Peggy Walter, Planning, Development and Legislative Services, Regional Municipality of Waterloo, 150 Frederick St, Kitchener, ON N2G 4J3.

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

1. That prior to approval the Owner/Applicant submit the consent review fee of \$350 to the Regional Municipality of Waterloo.
2. That prior to approval, the Owner/Applicant enter into a registered development agreement with the City of Kitchener to implement the following conditions for all dwelling units on both retained and severed lots:
 - a) That the owner/developer agrees to construct the dwelling with forced air-ducted heating system suitably sized and designed with provision for the installation of air conditioning in future, at the occupant's discretion.

- b) That the following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
- i) “The purchasers / tenants are advised that sound levels due to increasing road traffic Conestoga Parkway/Highway 7, as well as commercial land uses in proximity, may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)”.
 - ii) “This dwelling has been fitted with a forced air-ducted heating system and has been designed with the provision of adding central air conditioning at the occupant’s discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)”.

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)*
- *Central Frederick Secondary Plan (1994 Official Plan)*
- *Zoning By-law 85-1*