

REPORT TO: Committee of Adjustment

DATE OF MEETING: August 19, 2025

SUBMITTED BY: Tina Malone-Wright, Manager, Development Approvals
519-783-8913

PREPARED BY: Adiva Saadat, Planner, 519-783-7658

WARD(S) INVOLVED: 10

DATE OF REPORT: August 5, 2025

REPORT NO.: DSD-2025-343

SUBJECT: Consent Application B2025-024 - 17 Downey Street
Consent Application B2025-025 - 19 Downey Street

RECOMMENDATION:

A. Consent Application B2025-024 – 17 Downey Street

That Consent Application B2025-024 for 17 Downey Street requesting consent to sever a parcel of land having a lot width of 7.9 metres on Downey Street, a lot depth of 32, metres and a lot area of 252.4 square metres and to create an easement having a width of 1.5 metres and a depth of 2.3 metres at the rear of the building, 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 provide a Reference Plan and a Building Location Survey, prepared by an Ontario Land Surveyor, to confirm the boundaries of the new lots and that the location of the foundation and setbacks, with respect to the

proposed new lot lines, conforms with the Zoning By-law to the satisfaction of the Manager, Development Approvals. If necessary, that the Owner obtain Consent Approval of 1.5 metre Maintenance Easements to facilitate any 0-metre lot line development along the common lot line.

5. 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:
 - 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.
6. 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.
7. That the Owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
8. That the Owner submit a Development Asset Drawing (digital AutoCAD) for the site (servicing, SWM etc.) with corresponding layer names and asset information to the satisfaction of the City's Director of Engineering Services, prior to deed endorsement.
9. That the Owner makes financial arrangements for the installation of any new service connections to the severed and/or retained lands to the satisfaction of the City's Director of Engineering Services.
10. That any new driveways are to be built to City of Kitchener standards at the Owner's expense prior to occupancy of the building to the satisfaction of the City's Director of Engineering Services.
11. That the Owner provides confirmation that the basement elevation can be drained by gravity to the street sewers to the satisfaction of the City's Director of Engineering Services. If this is not the case, then the owner will need to pump the sewage via a pump and forcemain to the property line and have a gravity sewer from the property line to the street to the satisfaction of the City's Director of Engineering Services.
12. That the owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication of \$11,862.00.

13. That prior to final approval the Owner submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

B. Consent Application B2025-025 – 19 Downey Street

That Consent Application B2025-025 for 19 Downey Street requesting Consent to create an easement having a width of 1.5 metres and a depth of 2.7 metres at the front of the building where the common wall is not shared for the purposes of access and maintenance in favour of the Severed Parcel, 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 provide a Reference Plan and a Building Location Survey, prepared by an Ontario Land Surveyor, to confirm the boundaries of the new lots and that the location of the foundation and setbacks, with respect to the proposed new lot lines, conforms with the Zoning By-law to the satisfaction of the Manager, Development Approvals. If necessary, that the Owner obtain Consent Approval of 1.5 metre Maintenance Easements to facilitate any 0-metre lot line development along the common lot line.
5. 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:
 - 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.

6. 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.
7. That prior to final approval the Owner submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a Consent Application to permit each side of a Semi-Detached Dwelling, currently under construction, to be dealt with independently.
- The key finding of this report is that the applications meet 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-east side of Downey Street and Edwin Street.

The subject property is identified as 'Community Areas' 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 applications are to permit the severance of a parcel of land and retain the other parcel to permit each half of a Semi-Detached Dwelling, currently under construction to be serviced and conveyed independently; and to create access easements for maintenance purposes.



Figure 1 – 17-19 Downey Street Location Map



Figure 2 - Semi-Detached Dwelling Under Construction (July 31, 2025)

The applicant is requesting consideration of Consent Application B2025-024 to sever a lot having a width of 7.9 metres on Downey Street, a lot depth of 32 metres and a lot area of 252.4 square metres. Consent is also being requested to create an easement having a width of 1.5 metres and a depth of 2.3 metres at the rear of the building where the common wall is not shared for the purposes of access and maintenance in favour of the

Retained Parcel. The lands to be Retained will have a lot width of 10.3 metres on Downey Street, a lot depth of 32 metres and a lot area of 284.9 square metres. The consent will allow each half of a semi-detached dwelling to be dealt with independently.

The applicant is also requesting consideration of Consent Application B2025-025 to create an easement having a width of 1.5 metres and a depth of 2.7 metres at the front of the building where the common wall is not shared for the purposes of access and maintenance in favour of the Severed Parcel.

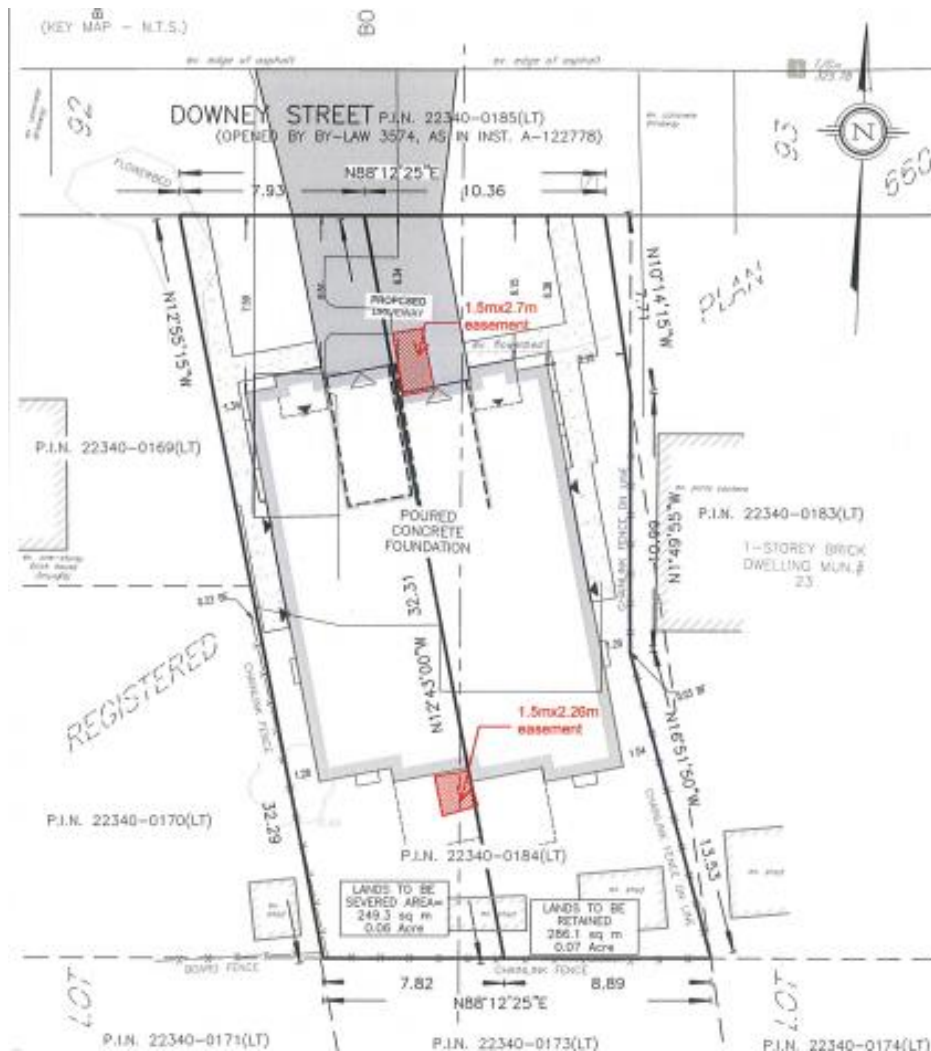


Figure 3 - Proposed Plan for Severance

It is noted that the foundation for the proposed building/dwelling has not yet been surveyed, and a Reference Plan and Building Location Survey was not provided and submitted with the Consent Applications. Typically, best practices dictate that prior to the Consent of a property proposed to contain an attached dwelling, the foundation is to be set and surveyed so as to accurately capture the new lot line as constructed. The City is cognisant of the construction challenges and excavation costs that this process poses, and as such, will permit Consent Applications to proceed ahead of the foundation being poured and surveyed. The Applicant is submitting this application with confidence that the future foundation will coincide with the proposed lot dimensions and setbacks and is

proceeding with the application at this time ‘at their own risk’. A new condition is proposed to be added to these types of Consent Approvals as follows:

“That the Owner provide a Building Location Survey and/or Reference Plan, prepared by an Ontario Land Surveyor, to confirm the boundaries of the new lots and that the location of the foundation and setbacks, with respect to the proposed new lot lines, conforms with the Zoning By-law to the satisfaction of the Manager, Development Approvals. If necessary, that the Owner obtain Consent Approval of 1.5 metre Maintenance Easements to facilitate any 0-metre lot line development along the common lot line.”

Should the common wall of the foundation not be located on the common lot line, or the setbacks of the building/dwelling do not meet zoning requirements, the Applicant will be required to rectify and/or submit Committee of Adjustment Applications to resolve the errors and/or deficiencies at their own expense.

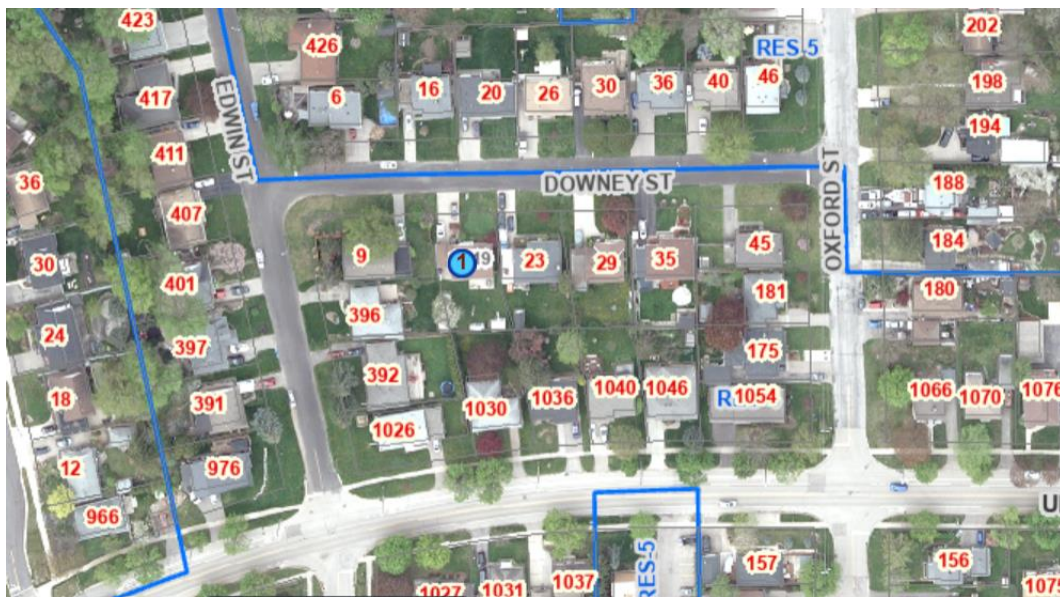


Figure 4 - Surrounding Neighbourhood Lot Fabric

REPORT:

Planning Comments:

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

Provincial Planning Statement (PPS 2024)

Staff are satisfied that the proposed infill severance applications are consistent with the Provincial Planning Statement in general and as it related to housing policies in Chapter 2 regarding intensification and facilitating housing options. Section 2.2 1 (b) states that Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected needs of current and future residents of the regional market area by permitting and facilitating all housing options required to meet the social, health, economic and well-being requirements of current and future residents.

Regional Official Plan (ROP):

ROP Urban Area policies state that the focus of the Region's future growth shall be within the Urban Area. The subject lands fall within the 'Urban Area' and 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 and community infrastructure required for the proposed residential development, including transportation networks, municipal water 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. Staff are satisfied that the proposed severance applications adhere to these policies and conform 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 Residential' on Map 3 – Land Use 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 one (1) severed and one (1) retained lot satisfies the minimum zoning requirements for lot width and lot area and the proposed dwelling would adhere to the

minimum required yard setback requirements. The proposed lots also reflect the general scale and character of the established development pattern for this area as shown in Figure 4. The lots have suitable frontage on a public street, access to full municipal services, do not restrict development of adjacent properties, and do not require a plan of subdivision. As such, staff are satisfied that the proposed severances conform to the City of Kitchener Official Plan.

Zoning By-law 2019-051

The property is zoned 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051. The proposed dwelling meets the minimum lot area and lot width requirements. The proposed dwelling is also zoning compliant for minimum required yard setbacks.

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 and easements are desirable and appropriate.

Environmental Planning Comments:

No comments or concerns.

Heritage Planning Comments:

No 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 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.

- The Owner shall implement a suitable design solution for a sump pump outlet to the satisfaction of the Director of Engineering. Here is the OBC standard: This is the requirement in the code: 9.14.5.1. Drainage Disposal
 - *Foundation* drains shall drain to a sewer, drainage ditch or dry well.
 - A side yard swale is not considered a drainage ditch.
- The side yard currently accommodates overland stormwater flows from the rear yard. The final grading of this property shall not adversely affect the drainage of adjacent properties or the overall grading control plan. The Owner is responsible to address storm water drainage at the Building Permit stage. Engineering requires a minimum 1m swale centred on property line. Therefore, the walkway to the side door cannot encroach within the 0.5m from property line towards the house.

Parks and Cemeteries/Forestry Division Comments:

B2025-024 – 17 Downey Street (Severed Parcel)

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 lot only, with a land valuation calculated by the lineal frontage of 7.9 metres at a land value of \$36,080 per frontage metre, which equals \$14,251.60. In this case, a per unit cap of \$11,862.00 has been applied.

B2025-025 – 17 Downey Street (Retained Parcel)

No concerns, no requirements

Transportation Planning Comments:

Transportation Services have no concerns with these applications.

Region of Waterloo Comments:

Regional staff have not received the required consent review fee for this application, \$350.00.

Regional Staff has **no objections** to the proposed consent applications subject to the following condition:

1. That prior to final approval, the owner/applicant submits the consent review fee of \$350 per application to the Regional Municipality of Waterloo.

General Comments

Any future development on the lands subject to the above-noted consent application will be subject to the provisions of Regional Development Charge By-law 19-037 or any successor thereof.

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 Planning Statement (PPS 2024)*
- *Regional Official Plan (ROP)*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*