

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: September 20, 2022

SUBMITTED BY: Tina Malone-Wright, Supervisor, Development Applications
519-741-2200 ext. 7765

PREPARED BY: Tara Zhang, Planner 519-741-2200 ext. 7760

WARD(S) INVOLVED: Ward 2

DATE OF REPORT: September 9, 2022

REPORT NO.: DSD-2022-439

SUBJECT: Consent Application B2022-047 - 124 Walker Street
Owner: New Villa Group Inc.
Agent: Mitchell Courtney

RECOMMENDATION:

That Consent Application B2022-047 requesting consent to sever a parcel of land having a lot width of 8.6 metres, a lot depth of 31.1 metres and a lot area of 270 square metres, 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 property owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
5. That the property 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.

6. That the property 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.
7. 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.
8. That the property 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.
9. That the property owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication equal to \$3,992.80 of the value of the lands to be severed.
10. That the property owner shall fulfil one of the following three requirements to ensure that any City-owned tree will not be impacted by the proposed development:
 - a) Enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor and registered on title to the severed and retained lands, which shall include the following:
 - i) That the owner shall prepare a Tree Preservation and Enhancement Plan, in accordance with the City's Tree Management Policy, demonstrating protection and preservation of the City-owned tree that is located adjacent to the severed and/or retained lands, to the satisfaction of and approval by the City's Director Parks and Cemeteries. Said plan shall include, among other matters, the identification of a proposed building envelope/work zone, a landscaped area and the vegetation to be preserved. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks and Cemeteries.
 - ii) That the property owner shall implement the Tree Protection and Enhancement Plan, prior to any tree removal, grading, servicing or the issuance of any demolition and/or building permits, to the satisfaction of the City's Director Parks and Cemeteries.
 - iii) That the property owner shall maintain the severed and retained lands, in accordance with the approved Tree Preservation and Enhancement Plan, for the life of the development.

OR

- b) Enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor and registered on title of the severed and retained lands, which shall include the following:
 - i) That the property owner shall prepare a Street Tree Planting Plan that shows the replacement of the City-owned tree to be removed (located adjacent to the severed and/or retained lands) with two (2) suitable trees, in accordance with the City of Kitchener Development Manual Standards, to the satisfaction of the City's Director Parks and Cemeteries. No changes to the said plan shall

be granted except with the prior approval of the City's Director Parks and Cemeteries.

- ii) That the property owner shall implement the approved Street Tree Planting Plan, to the satisfaction of the City's Director Parks and Cemeteries.

OR

- c) Make arrangements regarding financial compensation for the tree to be removed, to the satisfaction of the City's Director of Parks and Cemeteries.

11. That prior to final approval, the property owner shall make financial arrangements for the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

12. That a valid Notice of Source Protection Plan Compliance (section 59 notice) as per the *Clean Water Act, 2006* be submitted to the Region of Waterloo.

REPORT HIGHLIGHTS:

- The purpose of this report is to review an application for consent to sever a semi-detached dwelling, which is under construction, so that each half of the semi-detached dwelling may be dealt with independently.
- There are no financial implications.
- This report supports the delivery of core services.

BACKGROUND:

The subject property is within in the Centreville Chicopee Neighbourhood and is located west of River Road East and east of Weber Street East. 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 'Residential Four Zone (R-4)' in Zoning By-law 85-1 and 'Low Rise Residential Four (RES-4)' in Zoning By-law 2019-051, which is currently under appeal.

The applicant is requesting consent for the semi-detached dwelling, currently under construction, so that each half of the semi-detached unit may be dealt with independently.

City staff conducted a site inspection on September 2nd, 2022.



Figure 1: Location of Subject Property



Figure 1: Front view of the subject property

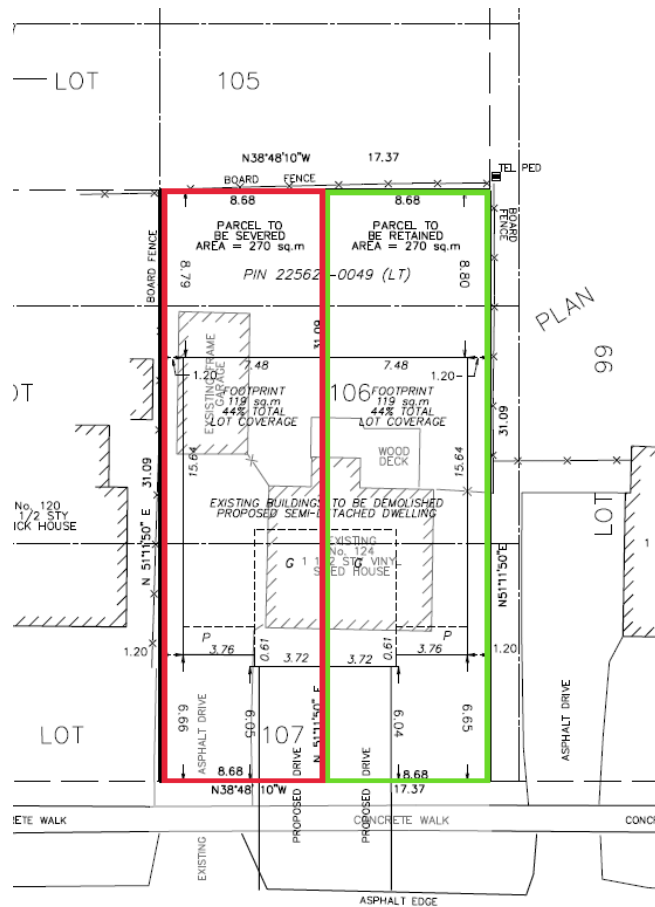


Figure 3: Proposed Severance Plan

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 application for sever the semi-detached dwelling 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 high order 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 consent application to sever the semi-detached dwelling, currently under construction, is consistent with 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)

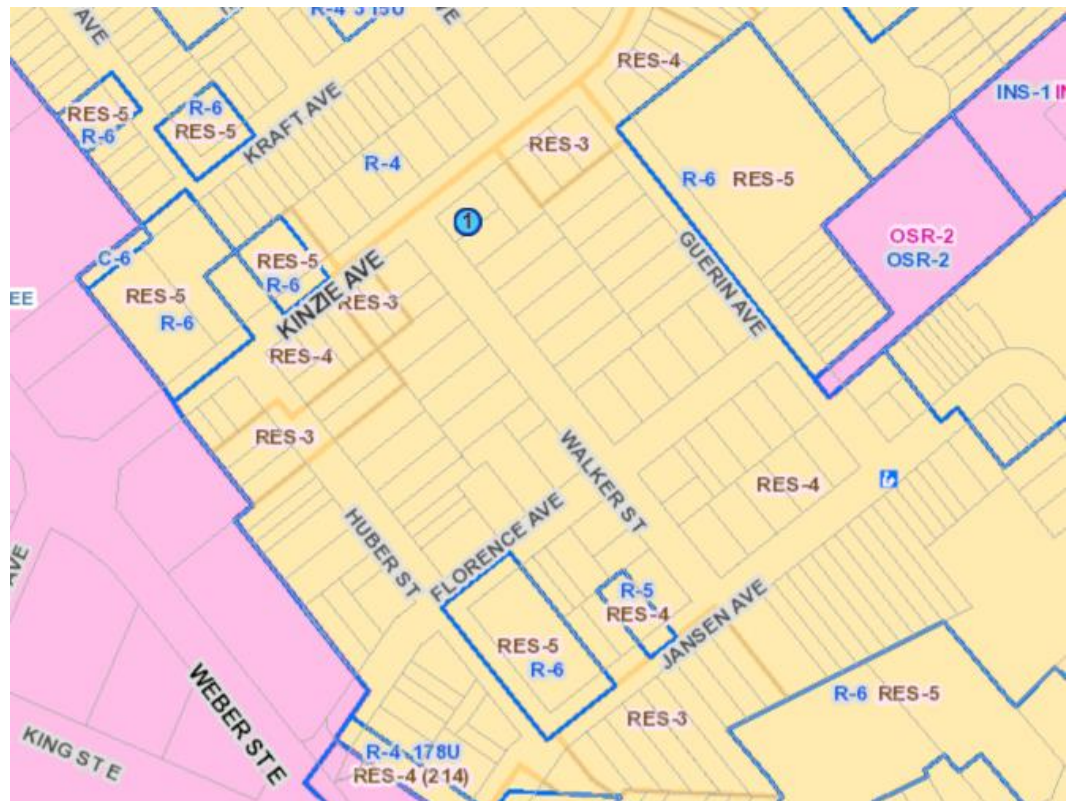
The subject property is identified as 'Community Areas' on Map 2 – Urban Structure and is designated 'Low Rise Residential' on Map 3 – Land Use in the City's Official Plan.

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;

The subject lot is noted with the blue dot in the image below. The semi-detached dwelling built form is compatible with the dwelling types and sizes in the neighbourhood and the proposed lot sizes will also be compatible with the pattern of the surrounding lands with respect to 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."

Zoning By-law 85-1/2019-051

The subject property is zoned as 'Residential Four (R-4)' in Zoning By-law 85-1 and 'Low Rise Residential Four (RES-4)' in Zoning By-law 2019-051.

The 'R-4' zone and 'RES-4' zone permits a range of low-density dwelling types such as single detached, semi-detached, and duplex dwellings. Restrictively, 'R-4' and 'RES-4' Zone requires a minimum lot width of 7.5 metres and minimum lot area of 210 square metres. The proposed lot widths and lot areas of the proposed severed and retained lots exceed the minimum 'R-4' and 'RES-4' zone lot width and lot area requirements.

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 concerns.

Heritage Planning Comments:

No heritage concerns.

Building Division Comments:

No objections.

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 and water municipal services are currently available to service this property. Any further enquiries in this regard should be directed to Eric Riek (eric.riek@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 street sewers. If this is not the case, then the owner would have 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.

Parks/Operations Division Comments:

Cash-in-lieu of park land dedication will be required on the severed parcel as one (1) new development lot will be created. The cash-in-lieu dedication required is \$3,992.80. Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of (8.68m) at a land value of \$9,200 per frontage meter.

A City-owned tree (tree ID #10047443) will be impacted by the proposed development and the owner shall fulfill one of the following three requirements:

1. Enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor and registered on title of the severed and retained lands, which shall include the following:
 - i. That the owner shall prepare a Tree Protection and Enhancement Plan, demonstrating protection of the City-owned tree that is located adjacent to the severed and retained lands, to the satisfaction of the City's Director Parks & Cemeteries. Said plan shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation to be

- preserved. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks & Cemeteries.
- ii. The owner shall implement the Tree Protection and Enhancement Plan, prior to any grading, servicing, tree removal or the issuance of building permits, to the satisfaction of the City's Director Parks & Cemeteries.
 - iii. The owner shall maintain the severed and retained lands, in accordance with the approved Tree Protection and Enhancement Plan, for the life the development.

OR

2. Enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor and registered on title of the severed and retained lands, which shall include the following:
 - i. That the owner shall prepare a Street Tree Planting Plan that shows the replacement of the City-owned tree to be removed with 2 suitable trees, in accordance with the City of Kitchener Development Manual Standards, to the satisfaction of the City's Director Parks & Cemeteries. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks & Cemeteries.
 - ii. The owner shall implement the approved Street Tree Planting Plan, to the satisfaction of the City's Director Parks & Cemeteries.

OR

3. Make arrangements regarding financial compensation for the tree to be removed to the satisfaction of the City's Director of Parks & Cemeteries.

Transportation Planning Comments:

No concerns.

Region of Waterloo Comments:

Regional Fee:

The owner/applicant is required to submit the Regional consent review fee of \$350.00 per consent application prior to final approval of the consent.

Notice of Source Protection Plan Compliance (Section 59 Notice):

The subject lands are located in a Source Protection Area where Grand River Source Protection Plan policies implemented by the Region of Waterloo may apply. Per s.59 of the *Clean Water Act, 2006* a Notice of Source Protection Plan Compliance is required as part of a complete application submission.

To apply for a Notice of Source Protection Plan Compliance (Section 59 Notice) the owner/applicant must complete the questionnaire at <https://taps.regionofwaterloo.ca/> listing all applicable activities prescribed under the Clean Water Act related to the application. A Notice will only be considered valid if the following criteria are met;

- Applicant has signed the Notice;
- Address and application type on the Notice match the rest of the application; and
- All activities related to the proposed application are listed in Schedule 1.

Invalid Notices will not be accepted and may result in delayed approvals.

The Region has no objection to the proposed application, subject to the following conditions:

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per consent application.
- 2) That prior to final approval, the owner/applicant must submit a valid Notice of Source Protection Plan Compliance (section 59 notice) as per the *Clean Water Act, 2006*.

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)*
- *Zoning By-laws 85-1 and 2019-051*