

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: Tim Seyler, Planner, 519-741-2200 ext. 7860

WARD(S) INVOLVED: Ward 4

DATE OF REPORT: September 9, 2022

REPORT NO.: DSD-2022-438

SUBJECT: Consent Applications B2022-048 to 055 (inclusive)
7, 9, 11, 13, 15, 21, 23 and 25 Shaded Creek Drive
Owner: Aactiva Holdings Inc.
Agent: Rachel Wolff, MHBC Planning

RECOMMENDATIONS:

7 Shaded Creek Drive

That Consent Application B2022-048 requesting consent to create a 0.9 metre wide easement for access to the rear yard of a townhouse dwelling unit, as shown as Part 95 on Reference Plan 58R-21143, BE APPROVED subject to the following conditions:

1. 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 Supervisor, Development Applications:
 - 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.
2. 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.
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.

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

4. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

9 Shaded Creek Drive

That Consent Application B2022-049 requesting consent to create a 0.9 metre wide easement for access to the rear yard of a townhouse dwelling unit, as shown as Part 96 on Reference Plan 58R-21143, BE APPROVED subject to the following conditions:

1. 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 Supervisor, Development Applications:
 - 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.
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4. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

11 Shaded Creek Drive

That Consent Application B2022-050 requesting consent to create a 0.9 metre wide easement for access to the rear yard of a townhouse dwelling unit, as shown as Parts 97 and 98 on Reference Plan 58R-21143, BE APPROVED subject to the following conditions:

1. 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 Supervisor, Development Applications:
 - 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.

2. 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.
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, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

13 Shaded Creek Drive

That Consent Application B2022-051 requesting consent to create a 0.9 metre wide easement for access to the rear yard of a townhouse dwelling unit, as shown as Parts 99 and 100 on Reference Plan 58R-21143, BE APPROVED subject to the following conditions:

1. 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 Supervisor, Development Applications:
 - 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
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4. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

15 Shaded Creek Drive

That Consent Application B2022-052 requesting consent to create a 0.9 metre wide easement for access to the rear yard of a townhouse dwelling unit, as shown as Part 101 on Reference Plan 58R-21143, BE APPROVED subject to the following conditions:

1. 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 Supervisor, Development Applications:

- 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
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4. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

21 Shaded Creek Drive

That Consent Application B2022-053 requesting consent to create a 0.9 metre wide easement for access to the rear yard of a townhouse dwelling unit, as shown as Parts 102 and 103 on Reference Plan 58R-21143, BE APPROVED subject to the following conditions:

1. 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 Supervisor, Development Applications:
 - 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
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4. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

23 Shaded Creek Drive

That Consent Application B2022-054 requesting consent to create a 0.9 metre wide easement for access to the rear yard of a townhouse dwelling unit, as shown as Parts 104 and 105 on Reference Plan 58R-21143, BE APPROVED subject to the following conditions:

- 1. 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 Supervisor, Development Applications:**
 - 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.**
- 2. 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.**
- 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, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.**

25 Shaded Creek Drive

That Consent Application B2022-055 requesting consent to create a 0.9 metre wide easement for access to the rear yard of a townhouse dwelling unit, as shown as Part 106 on Reference Plan 58R-21143, BE APPROVED subject to the following conditions:

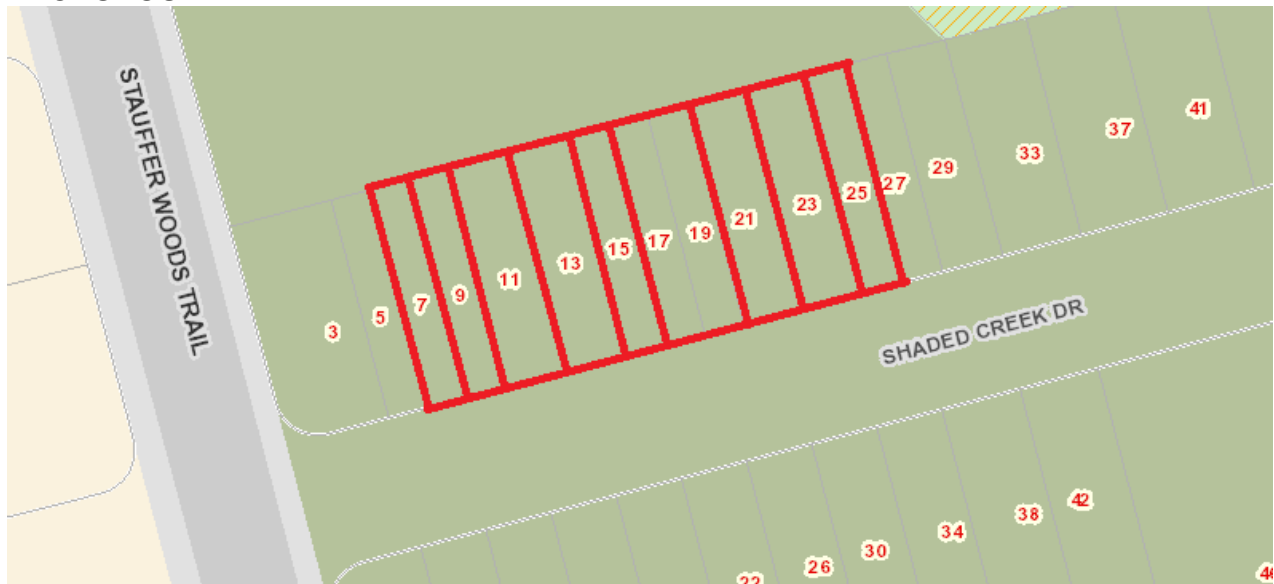
- 1. That the Transfer Easement document(s) required to create the Easement(s) being approved herein shall include the following, and shall be approved by the City Solicitor in consultation with the City's Supervisor, Development Applications:**
 - a) a clear and specific description of the purpose of 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**
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- 2. 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.**

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, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

REPORT HIGHLIGHTS:

- The purpose of this report is to provide a recommendation for the approval of the request to create 0.9 metre rear yard access easements for proposed street fronting townhouse units.
- There are no financial implications.
- This report supports the delivery of core services.

BACKGROUND:



Location Map – 7, 9, 11, 13, 15, 21, 23 and 25 Shaded Creek Drive



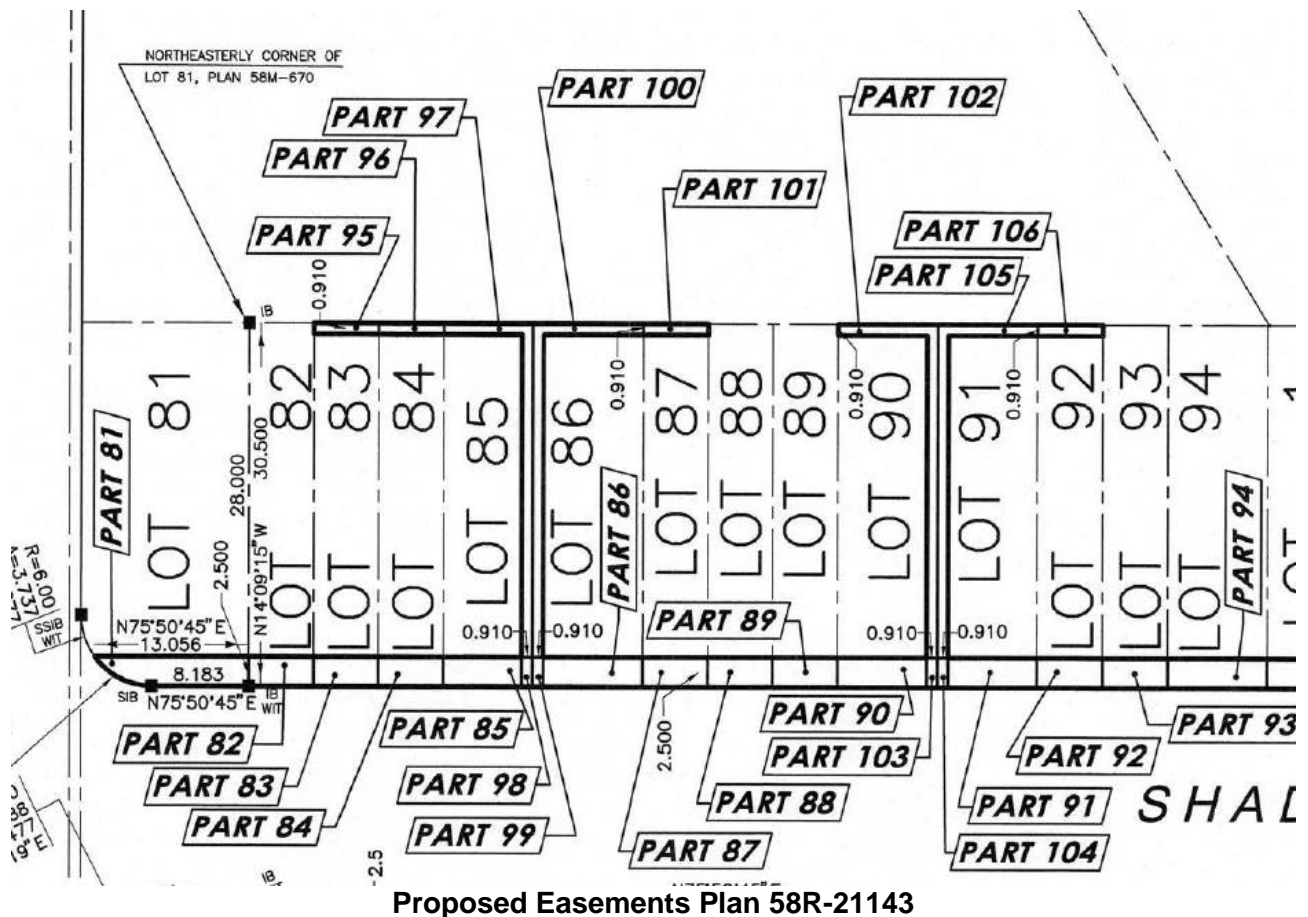
View of subject properties

The subject properties are located at 7, 9, 11, 13, 15, 21, 23 and 25 Shaded Creek Drive, in close proximity to the intersection of Stauffer Woods Trail and New Dundee Road.

The subject properties are identified as 'Community Areas' on Map 2 – Urban Structure and are designated 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan.

The properties are zoned 'Residential Six Zone (R-6)' with Special Regulation Provisions 685R, 687R, 689R in Zoning By-law 85-1. The properties are zoned 'Low Rise Residential Five Zone (RES-5)' with Site-Specific Provisions 306, 308 and 310 in Zoning By-law 2019-051, which is currently under appeal.

The purpose of the application is to create 0.9 metre wide easements for access to the rear yard of the street fronting townhouse dwelling units addressed as 7, 9, 11, 13, 15, 21, 23 and 25 Shaded Creek Drive.



REPORT:

Planning Comments:

The applicant is requesting consent to create a total of 8 easements to allow for rear yard access for interior townhouse dwelling units. The proposed easements measure 0.9 metres in width and vary in length and depth according to the varying lot sizes and the locations of the easements.

Staff does not have any concerns with the applications as the easements are required by the Zoning By-law. 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 easements are considered good planning that satisfies the policies of both the City's Official Plan and the Provincial Policy Statement.

Environmental Planning Comments:

No natural heritage or tree management policy concerns.

Heritage Planning Comments:

No heritage planning concerns.

Building Division Comments:

The Building Division has no objections to the proposed consents.

Engineering Division Comments:

Engineering Division has no comments.

Parks/Operations Division Comments:

No requirements - creation of a 0.9m rear yard access easements. Parkland Dedication has been taken through Draft Plan of Subdivision Application 30T-08203 and easements anticipated through Site Plan Application SP22/096/S/TS.

Transportation Planning Comments:

Transportation Services have no concerns with the proposed application.

Region of Waterloo Comments:

The owner/applicant is proposing to create rear yard access easements for the street fronting townhouse lots fronting on to Shaded Creek Drive, which is part of Plan of Subdivision 30T-08203 (Stage 4), Registered Plan 58M-670.

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.

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.

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*
- *DSD-2022-352*