

**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** December 13, 2022

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

**PREPARED BY:** Craig Dumart, Senior Planner, 519-741-2200 ext. 7073

**WARD(S) INVOLVED:** Ward 9

**DATE OF REPORT:** December 2, 2022

**REPORT NO.:** DSD-2022-508

**SUBJECT:** Validation of Title VT2022-001 - 280 Highland Road East

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## **RECOMMENDATION:**

That Application VT2022-001 requesting Validation of Title for an easement for servicing in favour of 274 Highland Road East, BE APPROVED subject to the following conditions:

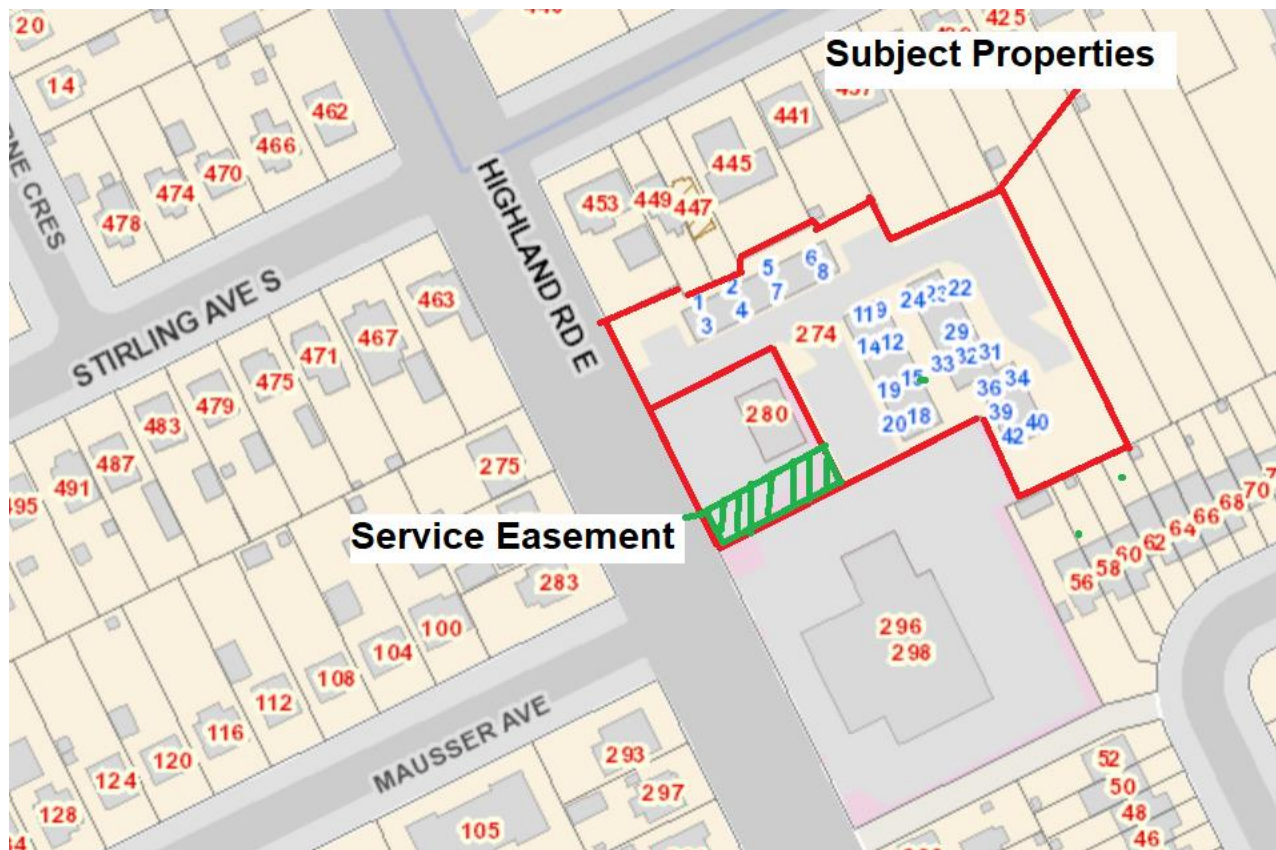
1. That the property owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
2. That the property owner provides a digital file of the deposited reference plan(s) prepared 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.

## **REPORT HIGHLIGHTS:**

- The purpose of this report is to validate title for an easement for servicing.
- There are no financial implications.
- This report supports the delivery of core services.

## **BACKGROUND:**

The applicant is requesting Validation of Title for an easement for servicing in favour of 274 Highland Road East having a width of 3.0 metres, a depth of 30.4 metres and an area of 91.5 square metres (shown as Part 1 on Reference Plan 58R-16753). The easement was previously granted by the Committee of Adjustment in January of 2010 through Consent Application B2010-001. The property owner of 280 Highland Road East registered Notice of an Easement Maintenance Agreement and the Transfer Easement, but without evidence of the Secretary-Treasurer's Consent as required by the Planning Act. As such the deed for the Easement was not given the Certificate of the Official prior to registration and the 2010 consent application ultimately lapsed due to the failure to satisfy certain conditions (submission of the reference plan).



**Location Map: 274 and 280 Highland Road East**

## **REPORT:**

### **Planning Comments:**

Under Section 57(1) of the Planning Act a Certificate of Validation is used to retroactively correct a past error under section 50 of the Planning Act (including the failure to complete the consent process), often as part of a time-sensitive transaction.

The request to for Validation of Title for an easement for servicing in favour of 274 Highland Road East having a width of 3.0 metres, a depth of 30.4 metres and an area of 91.5 square metres is appropriate and suitable for the existing use of the subject and adjacent lands. The easement over 280 Highland Road East is necessary for services and ensures 274 Highland Road East has adequate maintenance and access rights to services.

Planning Staff recommends the application be approved.

### **Building Division Comments:**

The Building Division has no objections for the validation of title.

### **Engineering Division Comments:**

Engineering has no concerns.

### **Region of Waterloo Comments:**

The Region of Waterloo has no concerns.

**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:**

Consent Application B2010-001  
Planning Act

**ATTACHMENTS:**

Attachment A – Reference Plan 58R-16753