

**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:** Katie Anderl, Senior Planner, 519-741-2200 ext. 7987

**WARD(S) INVOLVED:** Ward 2

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

**REPORT NO.:** DSD-2022-513

**SUBJECT:** Consent Application B2022-046 – 78-80 Old Chicopee Drive

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## **RECOMMENDATION:**

That Consent Application B2022-046 requesting consent to sever a parcel of land having a lot width of 9.9 metres, a lot depth of 39.6, metres and a lot area of 392.24 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, 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.

## **REPORT HIGHLIGHTS:**

- The purpose of this report is to recommend approval of a consent application proposing to sever an existing semi-detached dwelling.
- There are no financial implications.
- Community engagement included circulation of the application via mail and notification by way of the Record and signage placed on the property.
- This report supports the delivery of core services.

**BACKGROUND:**

The subject property is located at 78 – 80 Old Chicopee Drive. The property contains an existing semi-detached dwelling which was constructed in the late 1960's. The subject application was deferred in September 2022 to allow the applicant to update the plan in consideration of an existing accessory structure located in the rear yard. The applicant has revised the proposed property line such that the existing accessory structure will be fully located on the lands to be severed together with the minimum side yard setback of 0.6 metres.



**Image 1: Location Map (78-80 Old Chicopee Drive)**

The subject property is identified as 'Community Area' 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 RES-4 in Zoning By-law 2019-051, which is currently under appeal.

The purpose of the application is to sever the existing semi-detached dwelling, which has legally existed on one whole lot since initial construction in 1968. The lands to be severed are shown as Parts 1 and 2 on the Severance Sketch, and the lands to be retained as Parts 3 and 4. The applicant advises that there is an existing utility easement over parts 2 and 3 which will remain.

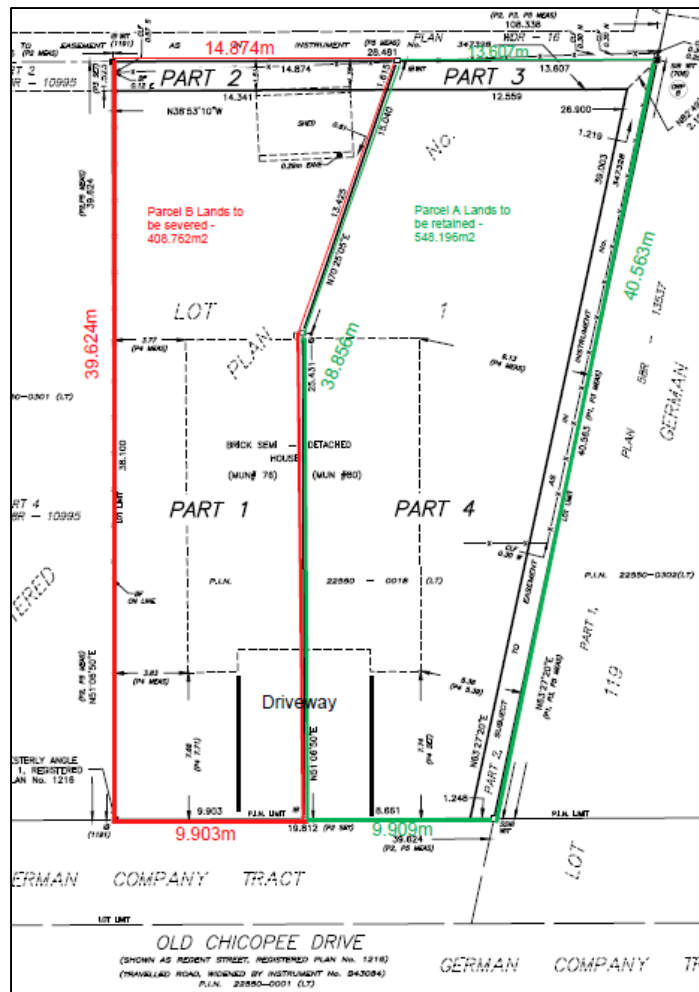


Image 2 – Severance Sketch



Image 3: Photo of 78 – 80 Old Chicopee Drive (August 30, 2022)



**Image 4: Rear yard of semi-detached house with shed location (November 18, 2022).**

## **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 consent to allow both halves of the existing semi-detached dwelling to be on separate lots 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 bus transit and are in 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 severance application will recognize the development of the lot with a semi-detached dwelling and allow both halves to be dealt with independently. 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 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 Area' 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 widths and areas of the severed and retained lots exceed the minimum 'R-4' and 'RES-4' zoning requirements and minor variances are not required. The semi-detached dwelling and accessory structure are existing and currently comply and will continue to comply with zoning regulations including setbacks, parking, etc. Planning staff is of the opinion that the size, dimension and shape of the proposed lots and existing built form are compatible with the surrounding neighbourhood which is developed with a mix of dwelling types including semi-detached dwellings, single detached dwellings, and low and medium rise multiple dwellings. There are no natural heritage

features that would be impacted by the proposed consent application as no new construction is proposed. The proposed lots are serviced with independent service connections.

The proposed lot line to the rear of the dwelling is angled in order to accommodate retention of the existing accessory structure with the lands to be severed. While an angled lot line is somewhat unusual, staff is of the opinion that in this circumstance it is appropriate. The lot is somewhat pie shaped and the proposed lot line, is generally aligned with the angled side lot line. The accessory structure is wholly located on the lands to be severed and minimum setbacks maintained. The rear yard area of the lands to be retained continues to be a generous size, and together with the large interior side yard provides for sufficient private amenity space for residents. Further, there are no existing decks, doors, patios or other existing features extending from the rear of the building which may be impacted by the proposed lot line.

Planning staff is of the opinion that the proposed severance conforms with the City of Kitchener Official Plan and Zoning By-laws.

**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 lot is desirable and appropriate. The future use 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, dimensions and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding community. 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 or tree management policy concerns as no new construction is proposed.

**Heritage Planning Comments:**

No heritage planning concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed consent of the existing semi with an existing fire separation between the units. Staff note that the 1968 Building permit makes reference to a firewall being present and extending into the roof sheathing.

**Engineering Division Comments:**

Engineering has no concerns with the proposed consent.

**Parks/Operations Division Comments:**

Parkland dedication is not required.

**Transportation Planning Comments:**

Transportation Services have no concerns with the proposed application.

**Region of Waterloo Comments:**

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

1. That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00.

**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*