

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

**WARD(S) INVOLVED:** Ward 3

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

**REPORT NO.:** DSD-2022-511

**SUBJECT:** Consent Applications B2022-058 to B2022-059 - 243 Connaught St

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**RECOMMENDATION:**

**Consent Application B2022-058 (Severed Lot)**

That Consent Application B2022-058 requesting consent to sever a parcel of land having a lot width of 10.08 metres, a lot depth of 23.62 metres and a lot area of 236.48 square metres, and consent to create a 1.5 metre wide Maintenance Easement for the side of the new semi detached dwelling unit on the lands to be Severed, as shown as Part 3 on the Draft Reference Plan, attached to Report DSD-2022-511, in accordance with drawings prepared by Can-Connect Developments Inc., dated October 31, 2022, 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 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.
5. 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.
  6. That the property owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
  7. 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.
  8. 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.
  9. 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.
  10. 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.
  11. That the property owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication equal to \$11,862.00 of the value of the lands to be severed.
  12. That the property owner shall enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor, to the satisfaction of the City Solicitor and the City's Supervisor, Site Plans, and registered on title of the severed and retained lands, which shall include the following:
    - a) That the property owner shall prepare a Tree Preservation and Enhancement Plan for the severed and retained lands, in accordance with the City's Tree Management Policy, to the satisfaction of and approval by the City's Supervisor, Site Plans. Such plans 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 Supervisor, Site Plans.
    - b) That the property owner shall implement the Tree Preservation 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 Supervisor, Site Plans.

- c) 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.
- 13. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
- 14. 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*.

**Consent Application B2022-059 (Retained Lot)**

That Consent Application B2022-059 requesting consent to create a 1.5 metre wide Maintenance Easement for the side of the new semi detached dwelling unit on the lands to be Retained, as shown as Parts 4 and 5 on the Draft Reference Plan, attached to Report DSD-2022-511, 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 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.
5. That the property owner shall:
  - a) complete a Building Code Assessment for the existing dwelling proposed to be located on the retained parcel of land, prepared by a qualified person, to confirm that the proposed property line and any of the building adjacent to this new property line complies with the Ontario Building Code, to the satisfaction of the City's Chief Building Official. The assessment shall address items such as, but not limited to, spatial separation of existing buildings' wall face, and shall include recommendations such as closing in of openings pending spatial separation

calculation results.

b) A Building Permit shall be obtained for any remedial work/ upgrades required by the Building Code Assessment.

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

7. 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*.

#### REPORT HIGHLIGHTS:

- The purpose of this report is to review an application for consent to sever a semi-detached dwelling, 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.



Image 1 - Subject Property – 243 Connaught Street

#### BACKGROUND:

The subject property is located at the intersection of Fourth Avenue and Connaught Street. The property is generally square in shape, with the front property line being along Connaught Street. The site is currently occupied by a single detached dwelling and is surrounded by existing low-rise residential uses including single detached dwellings, semi-detached dwellings, and multiple dwelling buildings.

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 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051, which is currently under appeal.

In May of 2022, the Committee considered Consent Application B2022-033 and associated Minor Variance Applications A2022-058 and A2022-059 to create a new lot for a duplex dwelling. Planning staff were unable to provide support for the consent and minor variance applications and recommended refusal. The Committee agreed with Planning staff's recommendation and the applications were refused.

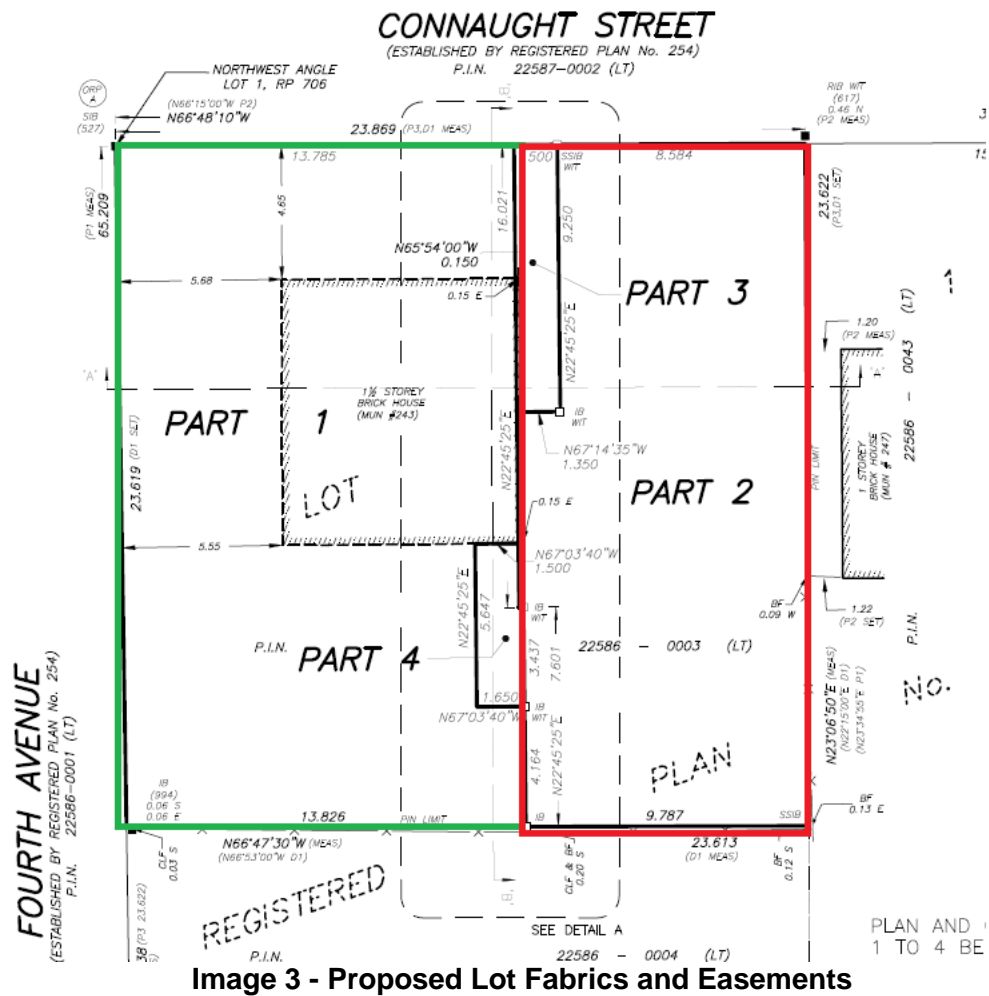


**Image 2 - Front View of Subject Property**

Subsequent to the May meeting the applicant met with staff several times to determine how best to gently intensify the subject property. Planning staff suggested that a semi-detached dwelling may be a more appropriate redevelopment of the subject property given the size of the subject property and the prevalence of semi-detached dwellings on similar sized lots in the neighbourhood.

The applicant has worked with Planning and Building staff to develop a plan to build an addition onto the existing single detached dwelling to create a new semi-detached dwelling. The applicant has submitted a Building permit for the addition, for the semi-detached dwelling unit, which is currently under review.

The purpose of the consent application is to sever the semi-detached dwelling on the common lot line and create the necessary maintenance easements so that each half of the new semi-detached dwelling can be dealt with independently.







**Image 5 - Proposed Rear Elevation**

## **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 proposed application will facilitate a form of gentle intensification of the subject property with the creation of a new semi-detached dwelling that will be compatible with the surrounding neighbourhood and will make use of the existing infrastructure. No new public roads would be required for the proposed development. Planning staff is of the opinion that this proposal 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 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 proposed development represents intensification and will contribute towards achieving the City's intensification density targets. The severance application will help make efficient use of existing infrastructure, parks, roads, trails and transit. 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."





**Environmental Planning Comments:**

It is recommended that the standard condition be applied to enter into an agreement on both the severed and retained lands to submit, obtain approval of, and implement a Tree Preservation / Enhancement Plan prior to demo, grading, building permit etc.

**Heritage Planning Comments:**

No Heritage Planning concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed applications provided:

1. A qualified designer is retained to complete a building code assessment as it relates to the new proposed property line and any of the building adjacent to this new property line shall address such items as:

Spatial separation of existing buildings' wall face to the satisfaction of the Chief Building Official. Closing in of openings may be required, pending spatial separation calculation results.

2. A building permit shall be obtained for any remedial work/ upgrades that may be required by the building code assessment.

**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 further enquiries in this regard should be directed to Katie Wood ([katie.wood@kitchener.ca](mailto:katie.wood@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:**

A cash-in-lieu of park land dedication will be required for the severed parcel as 1 new development lot will be created. The cash-in-lieu dedication required is **\$11,862.00**.

No concerns with proposed easements.

**Transportation Planning Comments:**

Driveway visibility triangles (DVT) of 4.57m x 4.57m be noted on the plan for access points along Connaught Street and Fourth Avenue. Maximum height of encroachment into the driveway visibility triangles (DVT) is 0.9m.

**Region of Waterloo Comments:**

The owner/applicant is proposing to sever the existing lot into two parcels in order to build a semi-detached dwelling. The existing dwelling on the retained lands is to remain. Regional staff note that a previous consent application for the subject lands was heard in May 2022 as B2022-033.

**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 consents.

**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.

**Airport Zoning (Advisory Comments):**

The applicant is advised that the subject lands are located within an airport zoning regulated area and specifically under the runway take-off approach surface. Therefore, the lands and the proposed development are subject to all provisions and restrictions of Airport Zoning regulations and Nav Canada.

For further information in this regard please contact:

Jordan Vander Veen

Senior Engineer, Region of Waterloo International Airport

Phone 519-648-2256 Ext 8514 Email: [jvanderveen@regionofwaterloo.ca](mailto:jvanderveen@regionofwaterloo.ca)

**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-law 85-1 and/or 2019-051*
- *Report DSD-2022-245 - Consent Application B2022-033 and associated Minor Variance Applications A2022-058 and A2022-059*

