

REPORT TO: Committee of Adjustment

DATE OF MEETING: January 17, 2023

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

PREPARED BY: Eric Schneider, Senior Planner, 519-741-2200 ext. 7843

WARD(S) INVOLVED: Ward 9

DATE OF REPORT: January 5, 2023

REPORT NO.: DSD-2023-039

SUBJECT: Consent Application B2023-001 - 204 Madison Avenue South
Owner: Al Zhara Shia Association of Waterloo
Agent: Evan Wittmann, GSP Group Inc

RECOMMENDATION:

That Consent Application B2023-001 requesting consent to create an easement for stormwater servicing having an irregular shape and an approximate width of 4 metres as shown as Part 1 on the draft Reference Plan prepared by McKechnie Surveying Ltd., dated February 9, 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, 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.
 7. That prior to final approval, the owner must submit a valid Notice of Source Protection Plan Compliance (section 59 notice) as per the Clean Water Act, 2006 to the Region of Waterloo.

REPORT HIGHLIGHTS:

- The purpose of this report is to review an application for consent to create an easement to facilitate a stormwater outlet for a planned multiple dwelling development at 165 Courtland Avenue East. The property owner at 204 Madison Avenue South is the applicant for this application that is requesting to create the easement over the lands at 204 Madison Avenue South to serve the property at 165 Courtland Avenue East.
- There are no financial implications.
- This report supports the delivery of core services.

BACKGROUND:

Site Plan Application SP20/064/C/ES at 165 Courtland Avenue East has received Approval in Principle from the City to construct a multiple dwelling with 30 dwelling units. A private servicing easement for the proposed stormwater outlet into privately owned storm sewers located on 204 Madison Avenue South is required as a condition to grant full site plan approval. This application is to create this easement.

165 Courtland Avenue East previously received approvals from the Committee of Adjustment for minor variances for reduction in parking and visitor parking in applications A2021-089 and A2022-095. These minor variances are in full force and effect.

The subject property at 204 Madison Avenue South is located on the north side of Madison Avenue South and is adjacent to a concrete channel portion of Schneider Creek.

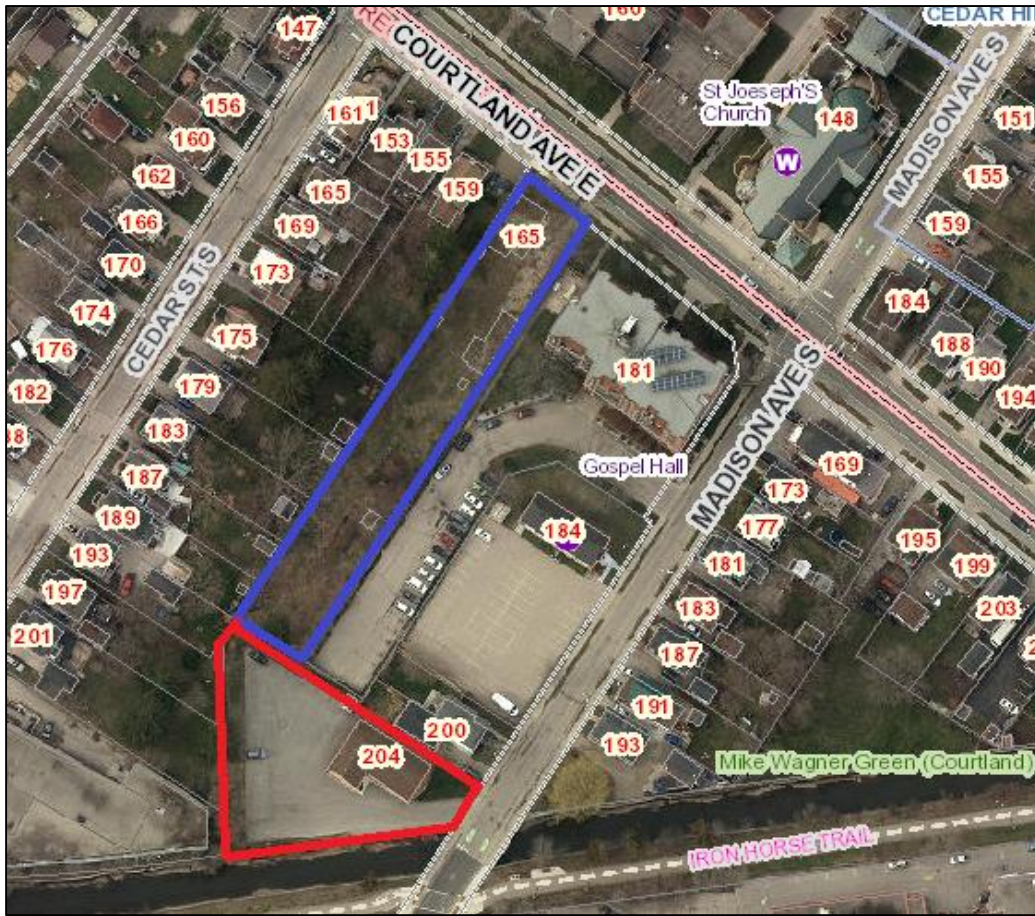


Figure 1. Location Map
 165 Courtland Avenue East (in blue)
 204 Madison Avenue South (in red)



Figure 2. View of 204 Madison Avenue South (January 3, 2023)



Figure 3. View of 165 Courtland Avenue East (January 3, 2023)

The subject property is identified as 'Major Transit Station Area' on Map 2 – Urban Structure and is designated 'Neighbourhood Institutional' on Map 12 – Mill Courtland Woodside Park Secondary Plan.

The property is zoned 'Neighbourhood Institutional Zone (I-1)' with Special Regulations Provisions 1R and 93R in Zoning By-law 85-1.

The purpose of the application is to create a private servicing easement for the proposed stormwater outlet into privately owned storm sewers located on 204 Madison Avenue South. The easement will facilitate the orderly drainage of stormwater from the proposed development of a 30 unit building at 165 Courtland Avenue East and will benefit the surrounding area by reducing the amount of fill required, as well as shortening the retaining wall needed to address the grades.

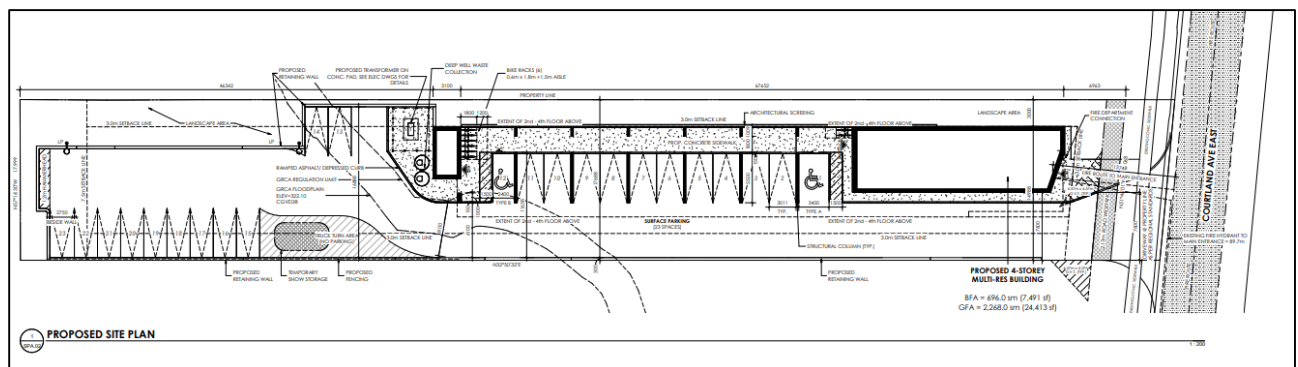


Figure 4. Site Plan for 165 Courtland Avenue East

REPORT:

Planning Comments:

In considering all the relevant Provincial legislation, Regional and City policies and regulations, Planning staff offer the following comments:

City's Official Plan (2014)

14.C.1.33. The City will promote the shared placement of utilities within easements and rights-of way to minimize land requirements and increase the efficiency of utility construction and maintenance.

17.E.20.4. Consents may be permitted for the creation of a new lot, boundary adjustments, rights of-way, easements, long-term leases and to convey additional lands to an abutting lot provided an undersized lot is not created.

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 easement is appropriate.

Environmental Planning Comments:

No natural heritage issues or requirements under the Tree Management Policy.

Heritage Planning Comments:

There are no heritage concerns. The Kitchener Cultural Heritage Landscape Study (CHLS) dated December 2014 and prepared by The Landplan Collaborative Ltd. was approved by Council in 2015. The CHLS serves to establish an inventory and was the first step of a phased Cultural Heritage Landscape (CHL) conservation process. The property municipally addressed as 204 Madison Avenue South is located within the Cedar Hill Neighbourhood CHL. The City has undertaken additional work on examining the CHL significance of the CHL area through its work on drafting a new Secondary Plan for the Cedar Hill / Schneider Creek area. For more information on the outcome of this CHL analysis and the specific recommendations which may impact properties located within the Cedar Hill Neighbourhood CHL, please visit the following link: www.kitchener.ca/npr.

Building Division Comments:

The Building Division has no objections to the proposed consent.

Engineering Division Comments:

Storm outlet being reviewed and installed through SP20/064/C/ES. Engineering has no comment.

Parks/Operations Division Comments:

No Parks/Operations comments.

Transportation Planning Comments:

Transportation Services does not have any concerns with the proposed application.

Region of Waterloo Comments:

Regional Fee:

The owner/applicant is required to submit the Regional consent review fee of \$350.00 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.
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*
- *Official Plan (2014)*
- *Zoning By-law 85-1*
- *A2021-089*
- *A2022-095*

ATTACHMENTS:

Attachment 'A' – Draft Reference Plan

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