

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: February 21, 2023

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: February 8, 2023

REPORT NO.: DSD-2023-077

SUBJECT: Consent Application B2023-005 – Fairway Road North & Woolner Trail – Grand River Conservation Authority

RECOMMENDATION:

That Consent Application B2023-005 requesting consent to create an easement for servicing over Parts 4 and 7 on Reference Plan 58R-21318, 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

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

- 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/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 create an easement to facilitate servicing over lands owned by the Grand River Conservation Authority, in favour of lands previously severed (B2021-011) and which have been conveyed to the Waterloo Catholic District School Board.
- 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 on Fairway Road North between Woolner Trail and the Grand River bridge as shown on Image 1 and 2 below. Lands on the south-east corner of Woolner Trail and Fairway Road North (Parts 1, 2, 3, 5 and 6 on 58R-21318) were previously severed from the subject lands by the Grand River Conservation Authority (GRCA) and have been conveyed to the Waterloo Catholic District School Board (WCDSB) for a future middle/secondary school. The purpose of this easement is to provide for construction, operation, maintenance, etc. of services over the subject lands. There are existing stormwater channel and sanitary pipes located within City owned lands south of the subject lands which may be appropriate connection points for future servicing.



Image 1 – Photo of subject lands – February 2, 2023.

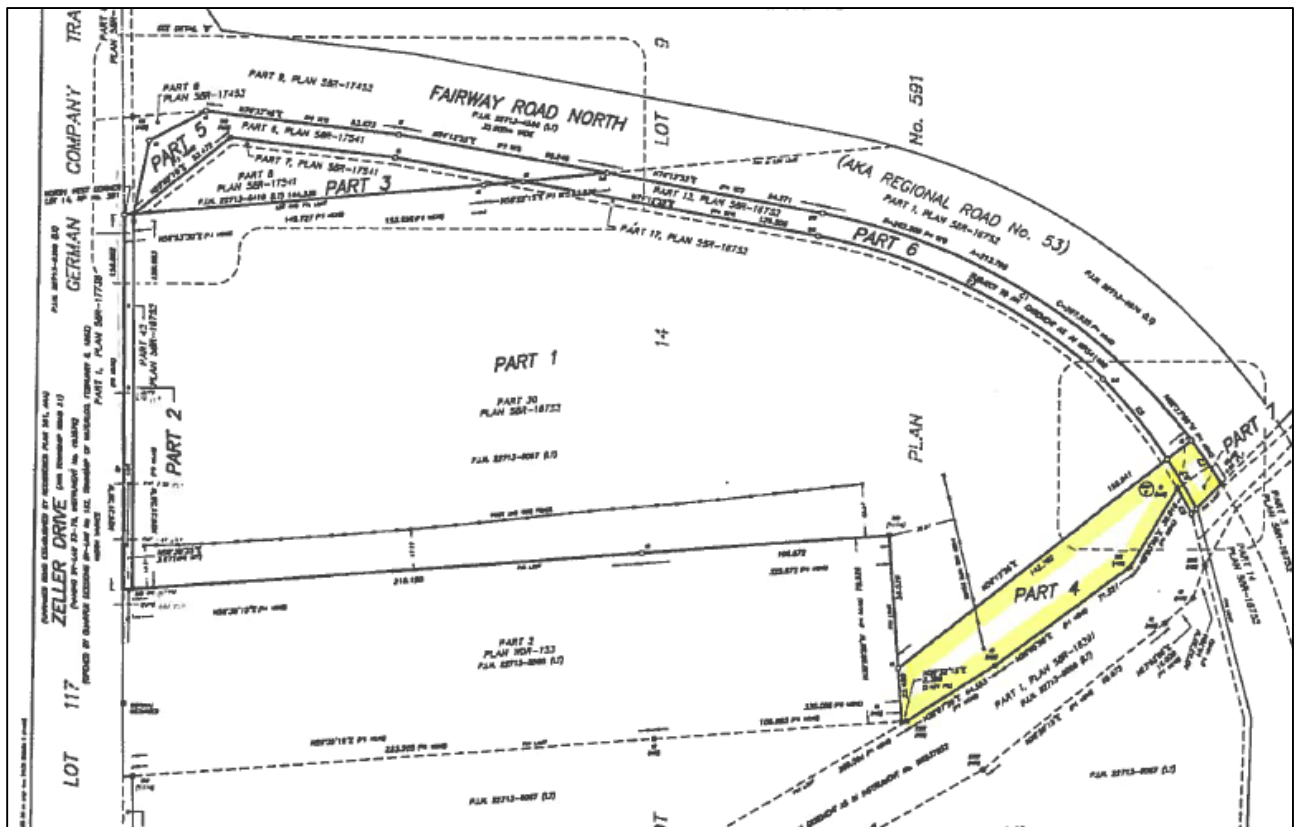


Image 2 – Excerpt from Severance Plan (Parts 4 and 7, 58R-21318)

The subject lands are 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 split zoned ‘Agricultural Zone A-1, 69U, 107R’ in Zoning By-law 85-1 and ‘Open Space: Stormwater Management Zone (OSR-3)’ in Zoning By-law 2019-051. Future development of the benefitting lands will require additional planning processes, and detailed engineering design and approvals.

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)

Servicing objectives of the City’s Official Plan are:

- 14.1.1. To provide infrastructure, municipal services and utilities in a coordinated, efficient and cost-effective manner to meet the City’s current and projected needs.
- 14.1.2. To maximize the use of existing municipal services and utilities before consideration is given to extending and/or developing new municipal services.
- 14.1.3. To promote cost-effective development patterns and standards to assist in minimizing servicing costs.

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 desirable and appropriate.

The future servicing and stormwater design for the benefitting lands will be reviewed and approved in accordance with the applicable provincial, regional and municipal policies. The proposed easement provides flexibility for the applicant to develop servicing and stormwater management plans that connect to and utilizes existing infrastructure.

Environmental Planning Comments:

No concerns. The requested easement is for proposed infrastructure that is similar in nature and adjacent to existing infrastructure permitted within the floodplain.

Heritage Planning Comments:

There are no heritage concerns with the proposed consent. The subject land is adjacent to 80 Woolner Trail, which is designated as a cultural heritage property under Part IV of the *Ontario Heritage Act*. Additional heritage work may be required for other planning applications.

Building Division Comments:

The Building Division has no objections to the proposed consent.

Engineering Division Comments:

The stormwater and servicing design will be reviewed through a future planning application. Engineering has no comment on the consent application.

Parks/Operations Division Comments:

No Concerns and no requirements.

Transportation Planning Comments:

Transportation Services have no concerns with the proposed application.

Grand River Conservation Authority:

The GRCA has no objections, from a regulatory or property perspective, to the application.

Region of Waterloo Comments:

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*
- *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 2019-051*
- *DSD-2021-053*

