

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

WARD(S) INVOLVED: Ward 1

DATE OF REPORT: February 7, 2023

REPORT NO.: DSD-2023-074

SUBJECT: Consent Application B2023-006 - 21 Nelson Avenue

RECOMMENDATION:

That Consent Application B2023-006 requesting consent to sever a parcel of land having a lot width of 15.0 metres, a lot depth of 38.1 metres and a lot area of 570 square metres, BE APPROVED, subject to the following conditions:

1. That the 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 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 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 Owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services Division.
5. A Development Asset Drawing (digital AutoCAD) is required for the site (servicing, SWM etc.) with corresponding layer names and asset information to the satisfaction of the City's Engineering Services Division prior to deed endorsement.
6. That the Owner makes financial arrangements to the satisfaction of the City's Engineering Division for the installation of any new service connections to the severed and/or retained lands.

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

7. 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 Engineering Services Division.
8. That the Owner provides Engineering staff with confirmation that the basement elevation 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 to the satisfaction of the Director of Engineering Services.
9. That the 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.
10. 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 addresses such items as:
 - a) 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.
 - b) A building permit shall be obtained for any remedial work/ upgrades that may be required by the Building Code Assessment.
11. That at the sole option of the City's Director of Planning, the 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 Director of Planning, which shall include the following:
 - a) That the owner shall prepare a Tree Preservation Plan for the severed and retained lands, in accordance with the City's Tree Management Policy, to be approved by the City's Supervisor, Site Plans, and where necessary, implemented prior to any grading, servicing, tree removal or the issuance of building permits. 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. If necessary, the plan shall include required mitigation and or compensation measures.
 - b) The owner further agrees to implement the approved plan. No changes to the said plan shall be granted except with the prior approval of the City's Supervisor, Site Plans.

REPORT HIGHLIGHTS:

- The applicant is requesting consent to create one new lot for a single detached dwelling while the retained lot will maintain an existing single detached dwelling.
- There are no financial implications.
- This report supports the delivery of core services.

BACKGROUND:

The subject property is located near at the intersection of Nelson Avenue and Norbert Place in the Bridgeport Neighbourhood of the City of Kitchener. The existing development of the neighbourhood consists of a mix of single detached dwellings, semi-detached dwellings, and multiple dwellings. Lot sizes vary in width, depth, and area in this neighborhood.



Figure 1: Location Map – 21 Nelson Avenue

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 Three Zone (R-3)' in Zoning By-law 85-1.

The applicant is requesting consent to create one new lot for a single detached dwelling while the retained lot will maintain an existing single detached dwelling.

The severed lot would have a lot frontage of 15.0 metres, a lot depth of 38.1 metres and an area of 570 square metres, while the retained lot would have a lot frontage of 23.7 metres, a lot depth of 38.1 metres and an area of 874 square metres.

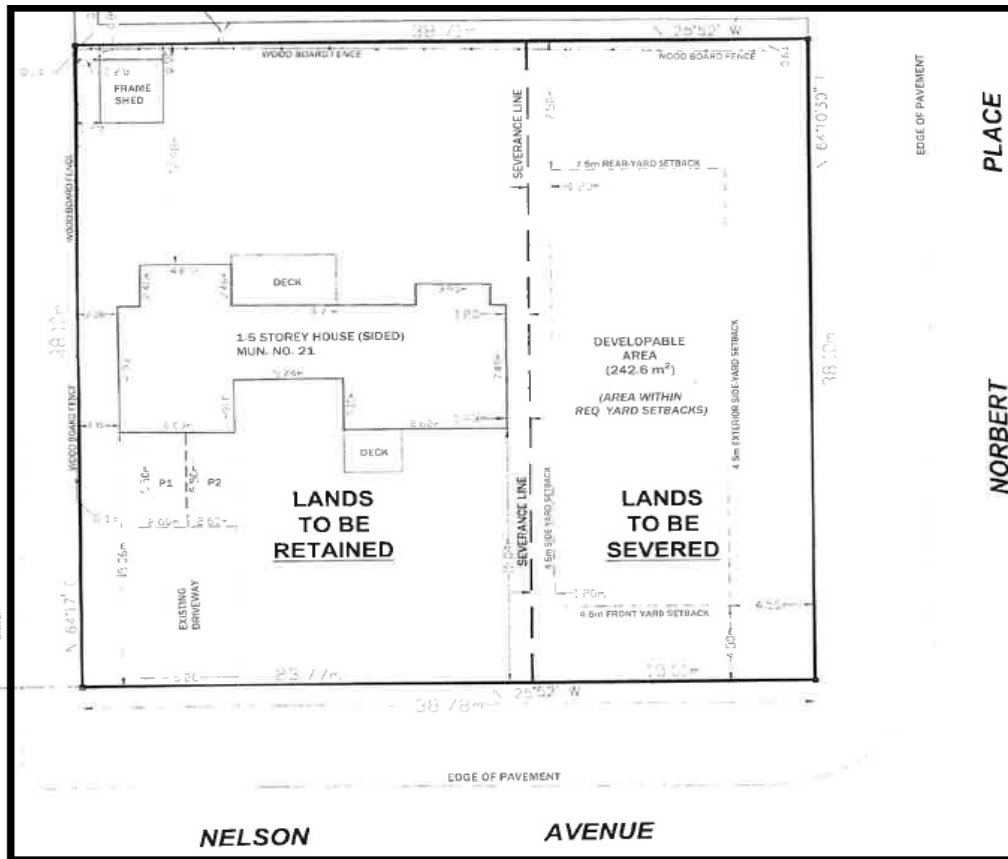


Figure 2: Proposed Lot Fabric

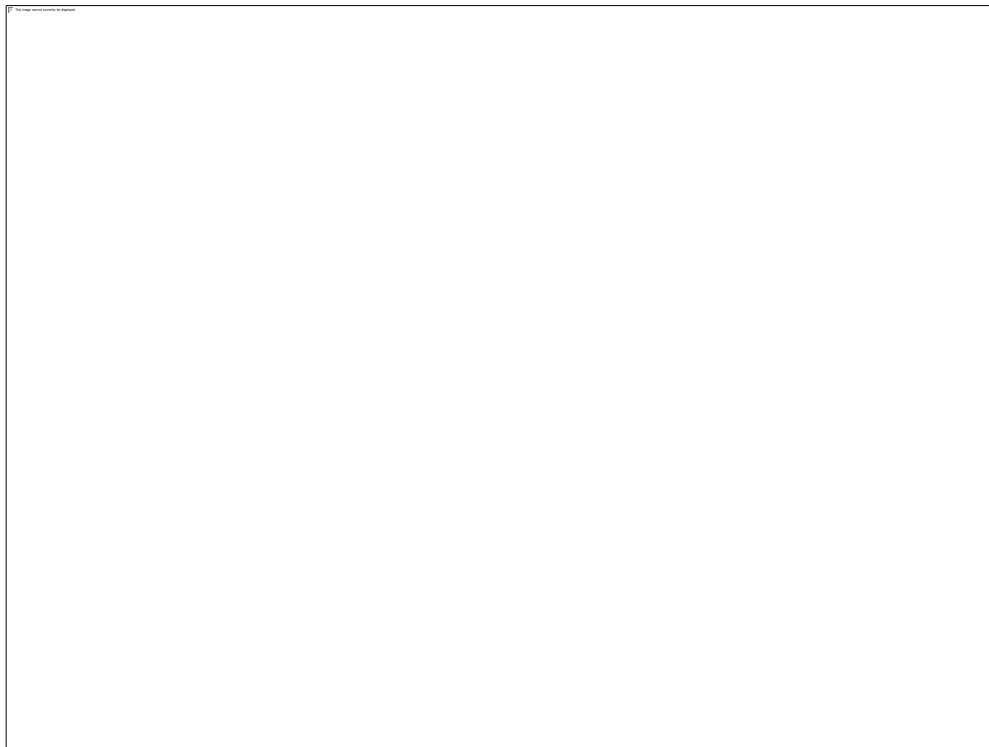


Figure 3: Existing single detached dwelling at 21 Nelson Avenue

Planning staff conducted a site visit on January 21, 2023.

REPORT:

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

Provincial Policy Statement, 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 new lot for a future single detached dwelling that is compatible with the surrounding community 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 (Growth Plan):

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.

Official Plan

The subject lands are designated Low Rise Residential (Map 3) in the 2014 Official Plan. The Low Rise Residential land use designation permits a full range of low density housing types which may

include single detached dwellings, semi-detached dwellings, street townhouse dwellings, and low-rise multiple dwellings. The Low Rise Residential land use designation encourages mixing and integrating different forms of housing to achieve and maintain a low-rise built form. The maximum net residential density for lands which are designated Low Rise Residential will be 30 units per hectare.

The proposed severance is in accord with this aspect of the plan and maintains the residential land use designation.

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 lot widths and lot areas of the proposed severed and retained lots exceed the minimum R-3 zone lot width and lot area requirements and minor variances are not required. Planning staff is of the opinion that the size, dimension and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding neighbourhood which is developed with single detached, semi detached and multiple dwellings with lots sizes that vary in width, depth, and area. The lands front onto a public street and full services are available. There are no natural heritage features that would be impacted by the proposed consent application. Planning staff is of the opinion that the proposed severance conforms with the City of Kitchener Official Plan.

Zoning By-law

The subject property is zoned as ‘Residential Three Zone (R-3)’ in Zoning By-law 85-1. The R-3 zone permits a range of low density dwelling types such as single detached dwellings. The R-3 Zone requires a minimum lot width of 13.7 metres (internal lots) and 15.0 metres (corner lots) and minimum lot area of 411 square metres for single detached dwellings. The proposed lot widths and lot areas of the proposed severed and retained lots meet the minimum ‘R-3’ zone lot width and lot area requirements.

Planning Conclusions

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 uses 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, dimension and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding community. There are existing schools within the neighbourhood. 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:

The following standard Tree Management condition needs to be applied.

"That at the sole option of the City's Director of Planning, the 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 Director of Planning, which shall include the following:

- a) That the owner shall prepare a Tree Preservation Plan for the severed and retained lands, in accordance with the City's Tree Management Policy, to be approved by the City's Supervisor, Site Plans, and where necessary, implemented prior to any grading, servicing, tree removal or the issuance of building permits. 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. If necessary, the plan shall include required mitigation and or compensation measures.
- b) The owner further agrees to implement the approved plan. No changes to the said plan shall be granted except with the prior approval of the City's Supervisor, Site Plans."

Heritage Planning Comments:

Heritage Planning has no concerns with the proposed consent application.

Building Division Comments:

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

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.
- 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 Christine.Goulet@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:

Cash-in-lieu of park land dedication will be required on the severed parcel as 1 new development lot will be created. The cash-in-lieu dedication required is **\$11,862.00**. Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of 15.01m at a land value of \$36,080 per frontage meter with a per unit cap of \$11,862.00.

There is an existing City-owned street tree located on Nelson Avenue that will be impacted by future construction / demolition. If this tree cannot be protected to City standards throughout construction as per Chapter 690 of the current Property Maintenance By-law, full compensation and replacement is expected. A Tree Protection and Enhancement Plan (TPEP) will be required as part of a Building Permit application, please see Urban Design Manual Part C, Section 13 and www.kitchener.ca/treemanagement.

Transportation Planning Comments:

Transportation Services have no concerns with the proposed application. For the severed portion of lands, ensure a corner visibility triangle is maintained at Nelson Avenue/Nobert Place and that a proposed driveway is setback a minimum of 9 metres from an intersection.

Region of Waterloo Comments:

The Region has no objection to the proposed application.

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 2020)*

- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan (ROP)*
- *Official Plan (2014)*
- *Zoning By-law 85-1*

ATTACHMENTS:

Attachment A – Severance Sketch