

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: March 21, 2023

SUBMITTED BY: Tina Malone-Wright, Interim Manager, Development Review
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WARD(S) INVOLVED: Ward 3

DATE OF REPORT: March 8, 2023

REPORT NO.: DSD-2023-118

SUBJECT: Consent Application B2023-007- 60 Third Avenue

RECOMMENDATION:

That Consent Application B2023-007 requesting consent to sever a parcel of land having a lot width of 9.6 metres, a lot depth of 40.0 metres and a lot area of 384.2 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 shall:
 - a) complete a Building Code Assessment for the existing dwelling proposed to be retained on the [severed or 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.

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

5. That the Owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
6. That the 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.
7. That the 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.
8. 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.
9. That the 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.
10. That the owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication of \$11,862.
11. That the Owner shall fulfil one of the following two requirements to ensure that any City-owned tree will not be impacted by the proposed development:
 - a) Enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor and registered on title to the severed and retained lands, which shall include the following:
 - i) That the owner shall prepare a Tree Preservation and Enhancement Plan, in accordance with the City's Tree Management Policy, demonstrating protection and preservation of the City-owned tree that is located adjacent to the severed and/or retained lands, to the satisfaction of and approval by the City's Director Parks and Cemeteries. Said plan 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 Director Parks and Cemeteries.
 - ii) The owner shall implement the Tree Protection 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 Director Parks and Cemeteries.
 - iii) The owner shall maintain the severed and retained lands, in accordance with the approved Tree Preservation and Enhancement Plan, for the life of the development.

OR

- b) Make arrangements regarding financial compensation for the tree to be removed, to the satisfaction of the City's Director of Parks and Cemeteries.

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

13. That prior to final approval, the owner/applicant must submit a valid section 59 notice to the satisfaction of the Region of Waterloo.

REPORT HIGHLIGHTS:

- The purpose of this report is to review an application for consent to sever a parcel of land for construction of a new duplex dwelling.
- There are no financial implications.
- Community engagement included a notice sign being placed on the property advising that a Committee of Adjustment application has been received, notice of the application was mailed to all property owners within 30 metres of the subject property and this report was posted to the City's website with the agenda in advance of the Committee of Adjustment meeting.
- This report supports the delivery of core services.

BACKGROUND:

The subject property is an interior lot located on the west side of Third Avenue between Kingsway Drive and Connaught Street.



Figure 1: Location of Subject Property



Figure 2: View of Existing Site (duplex dwelling under construction on retained lands)

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 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051.

The purpose of the application is to create a new lot to construct a new detached duplex dwelling on the severed lands (south side). A duplex dwelling is currently under construction on the retained lands (north side). The lands previously contained one single detached dwelling that was demolished in 2022.

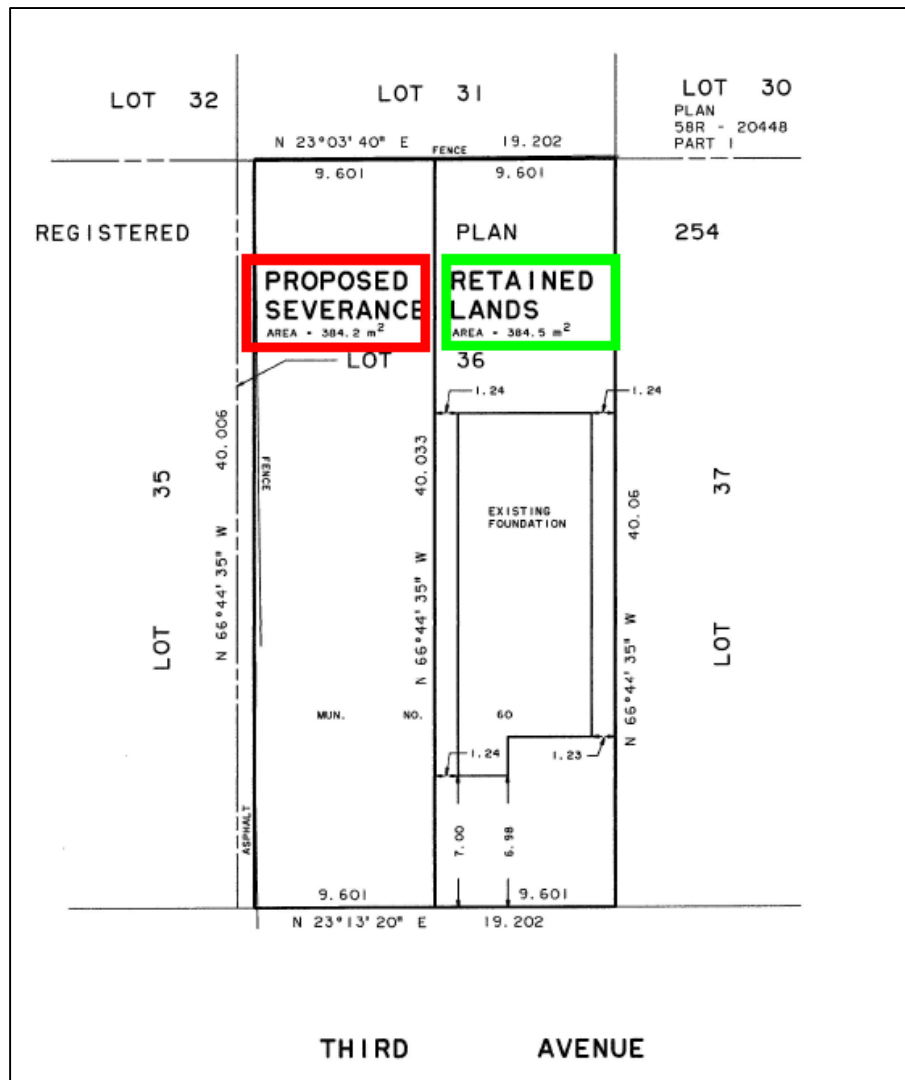


Figure 3: Severance Sketch

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 new lot for a future duplex 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

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.”

The proposed lot widths and lot areas of the proposed severed and retained lots exceed the minimum RES-4 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 2019-051

The subject property is zoned as ‘Low Rise Residential Four Zone (RES-4)’ in Zoning By-law 2019-051. The RES-4 zone permits a range of low density dwelling types such as duplex dwellings. The RES-4 Zone requires a minimum lot width of 9 metres (internal lots) and 12.8 metres (corner lots) and minimum lot area of 235 square metres for duplex dwellings. The proposed lot widths and lot areas of the proposed severed and retained lots meet the minimum ‘RES-4’ zone lot width and lot area requirements.

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 lots are desirable and appropriate.

Environmental Planning Comments:

No natural heritage concerns or tree management concerns.

Heritage Planning Comments:

No Heritage Planning concerns.

Building Division Comments:

The Building Division has no objections to the proposed consent 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 eric.riek@kitchener.ca
- Any new driveways are to be built to City of Kitchener/Region of Waterloo 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. Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of 9.601m at a land value of \$36,080 per frontage meter with a per unit cap of \$11,862.

There are two City owned street trees that will be impacted by the proposed development and severance and the owner shall fulfill one of the following options:

1. Enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor and registered on title of the severed and retained lands, which shall include the following:
 - a) That the owner shall prepare a Tree Protection and Enhancement Plan, demonstrating protection of the City-owned tree that is located adjacent to the severed and retained lands, to the satisfaction of the City's Director Parks & Cemeteries. Said plan shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation to be preserved. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks & Cemeteries.
 - b) The owner shall implement the Tree Protection and Enhancement Plan, prior to any grading, servicing, tree removal or the issuance of building permits, to the satisfaction of the City's Director Parks & Cemeteries.
 - c) The owner shall maintain the severed and retained lands, in accordance with the approved Tree Protection and Enhancement Plan, for the life the development.

OR

2. Make arrangements regarding financial compensation for the tree(s) to be removed, to the satisfaction of the City's Director of Parks & Cemeteries.

Transportation Planning Comments:

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

Region of Waterloo Comments:

The owner/applicant is proposing to sever the parcel into two equal parts so that the newly created parcel is used for the development of a detached duplex dwelling.

Regional Fee:

The owner/applicant is required to submit the Regional consent review fee of \$350.00 prior to final approval of the consent.

Source Protection Plan Compliance (Section 59 Notice):

The subject lands are located in a Source Protection Area where Risk Management Plan policies implemented by the Region of Waterloo may apply. The owner/applicant must complete the questionnaire on <https://taps.regionofwaterloo.ca/> to obtain a valid Section 59 Notice.

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 section 59 notice.

Updated Region of Waterloo comments/conditions will be provided under separate cover.

MTO Comments:

The Ministry of Transportation (MTO) has no requirement for this application. The subject property does fall within the MTO permit control, however given the proposed scope of work and separation from the highway network, MTO review, approval and permits will not be required.

GRCA Comments:

GRCA has no objection to the subject application. The subject property does not contain any natural hazards such as watercourses, floodplains, shorelines, wetlands, or valley slopes. The property is not subject to Ontario Regulation 150/06 and, therefore, a permission from GRCA is not required.

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 2019-051*

ATTACHMENTS:

None.