



Planning & Strategic Initiatives Committee Agenda

Monday, January 6, 2025, 6:30 p.m. - 8:30 p.m.

Council Chambers - Hybrid

City of Kitchener

200 King Street W, Kitchener, ON N2G 4G7

People interested in participating in this meeting can register online using the delegation registration form at www.kitchener.ca/delegation or via email at delegation@kitchener.ca. Please refer to the delegation section on the agenda below for in-person registration and electronic participation deadlines. Written comments received will be circulated prior to the meeting and will form part of the public record.

The meeting live-stream and archived videos are available at www.kitchener.ca/watchnow.

Accessible formats and communication supports are available upon request. If you require assistance to take part in a city meeting or event, please call 519-741-2345 or TTY 1-866-969-9994.

Chair: Councillor P. Singh

Vice-Chair: Councillor D. Chapman

Pages

1. **Commencement**

2. **Disclosure of Pecuniary Interest and the General Nature Thereof**

Members of Council and members of the City's local boards/committees are required to file a written statement when they have a conflict of interest. If a conflict is declared, please visit www.kitchener.ca/conflict to submit your written form.

3. **Consent Items**

The following matters are considered not to require debate and should be approved by one motion in accordance with the recommendation contained in each staff report. A majority vote is required to discuss any report listed as under this section.

3.1 **None.**

4. Delegations

Pursuant to Council's Procedural By-law, delegations are permitted to address the Committee for a maximum of five (5) minutes. All Delegations where possible are encouraged to register prior to the start of the meeting. For Delegates who are attending in-person, registration is permitted up to the start of the meeting. Delegates who are interested in attending virtually must register by 4:30 p.m. on January 6, 2025, in order to participate electronically.

4.1 None at this time.

5. Discussion Items

5.1 None.

6. Public Hearing Matters under the Planning Act (advertised)

This is a formal public meeting to consider applications under the Planning Act. In accordance with the Ontario Planning Act, only the applicant or owner of land affected by the planning applications, a specified person, or a public body, and or the Minister may appeal most decisions. If you do not make a verbal submission to the Committee or Council, or make a written submission prior to City Council making a decision on the proposal, you may not be entitled to appeal the decision of the City of Kitchener to the Ontario Land Tribunal (OLT), and may not be added as a party to the hearing of an appeal before the OLT. To understand your right of appeal, if any, or for further clarification regarding appeals, please see the Ontario Land Tribunal website (<https://olt.gov.on.ca/>).

6.1 Annual Zoning By-law Update, DSD-2025-003	20 m	3
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6.2 Zoning By-law Amendment Application ZBA21/012/W/ES, 400 Westwood Drive, Zakia Kardumovic and Anel Kardumovic, DSD-2025- 004	90 m	39
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(Staff will provide a 5-minute presentation on this matter.)

7. Information Items

7.1 None.

8. Adjournment

**Mariah Blake
Committee Coordinator**

REPORT TO: Planning and Strategic Initiatives Committee

DATE OF MEETING: January 6, 2025

SUBMITTED BY: Rosa Bustamante, Director of Planning and Housing Policy, 519-783-8929

PREPARED BY: Katie Anderl, Project Manager, 519-783-8926
Tim Seyler, Senior Planner, 519-783-8920

WARD(S) INVOLVED: All

DATE OF REPORT: December 4, 2024

REPORT NO.: DSD-2025-003

SUBJECT: Annual Zoning By-law Update

RECOMMENDATION:

That City-initiated amendment ZBA24/025/K/KA (Annual Zoning By-law Update) to Zoning By-law 85-1, be approved in the form shown in the ‘Proposed By-law’ attached to Report DSD-2025-003 as Appendix “A”; and,

That City-initiated amendment ZBA24/025/K/KA (Annual Zoning By-law Update) to Zoning By-law 2019-051, be approved in the form shown in the ‘Proposed By-law’ attached to Report DSD-2025-003 as Appendix “B”; and further,

That a new Legal Services Administrator FTE position be approved to support zoning review and the required legal administration of securing planning approvals to support the timely review of development applications in accordance with the timeframes prescribed by Provincial legislation.

REPORT HIGHLIGHTS:

- The purpose of this report is to provide a planning recommendation on minor and technical changes to Zoning By-law 85-1 and 2019-051 as part of an annual review and update.
- Financial implications of this report relate to a request to add one full time employee (FTE) to the Legal Division to adequately and effectively resource the review of development applications within the prescribed timeframes.
- Community engagement included posting preliminary notice of the Annual Zoning By-law Update and together with draft regulations on City’s website in November 2024. Further, notice of the statutory public meeting was published in the Record newspaper on December 13, 2024.
- This report supports the delivery of core services.

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

BACKGROUND:

Amendments to Zoning By-laws 85-1 and 2019-051 are proposed to improve administration and provide clarification in certain areas of the By-laws. Several minor changes have been identified through the daily use of the By-laws by various City staff which form the basis for the update. These changes are minor, administrative and technical and do not impact the overall intent of the Zoning By-laws.

REPORT:

The City's Zoning By-laws are regulatory tools that implement the objectives and policies of the Official Plan. The Zoning By-laws contain provisions that regulate the use, size, height, density and location of buildings on lands within the city along with other matters such as parking. The proposed amendments will enable staff, the community, and development industry to use and interpret regulations in the Zoning By-laws with more consistency.

Planning Act, R.S.O. 1990, c. P.13 25

Section 34(1) of the Planning Act provides authority for Council of the City of Kitchener to pass a Zoning By-law. Section 34(10) permits the Council of the City of Kitchener to amend an approved zoning by-law. Further, O. Reg 462/24 came into effect on November 20, 2024, and provided further regulation for lots with additional dwelling units. The proposed amendments incorporate the updated regulations.

Provincial Planning Statement (2024)

Section 6.1.6 of the PPS states that planning authorities shall keep their zoning and development permit by-laws up to date with their official plans and the PPS by establishing permitted uses, minimum densities, heights, and other development standards to accommodate growth and development. The proposed amendments are composed of minor changes to the By-law and staff is of the opinion that the regulations are consistent with the Provincial Planning Statement.

Region of Waterloo Official Plan

As of January 1, 2025 the planning responsibilities of the Regional Municipality of Waterloo will transition to lower-tier municipalities. Policies of the Regional Official Plan will continue to be implemented by the City of Kitchener, as applicable, until such time as they are incorporated into the City's Official Plan. Regional Official Plan policy 10.E.7 requires Area Municipalities, including the City of Kitchener, to bring zoning bylaws into conformity with the policies of the Regional Official Plan. The amendments proposed to Zoning By-laws 85-1 and 2019-051 are minor and technical and not meant to be a full conformity exercise.

City of Kitchener Official Plan

In accordance with Policy 17.E.12.1, the City's Zoning By-laws will be used to regulate the use of land and the location and use of buildings and structures in accordance with the provisions of the Planning Act in order to ensure the orderly development of the city and contribute to and maintain community character. The proposed administrative amendments

are technical in nature, provide additional clarity and understanding to the user, help to ensure consistent application of zoning regulations, and to ensure orderly development.

City of Kitchener Zoning By-laws

The subject amendments represent an annual review and update of the City's Zoning By-laws. The recommended amendments implement mandatory Provincial legislation and clarify and correct wording of regulations and definitions to ensure that they are clear and are consistently implemented. Updates also ensure that the zoning by-law aligns with minimum built form requirements of other Divisions so that they are enforceable and implementable. This includes, for example, Fire Services requirements for unobstructed walkways to additional units, and Engineering Services requirements for minimum setbacks to accommodate drainage patterns in side yards.

The proposed amendments to Zoning By-laws 2019-051 and 85-1 are fully described in the Rationale Chart attached as Appendix C. The following areas of amendment are highlighted for convenience.

Permitted Projections into Required Yards

Section 4.14 of Zoning By-law 2019-051 regulates elements of the built form which are permitted to project closer to property lines than the required setbacks for the principal building including, for example, pools, HVAC equipment, balconies, decks, patios, porches and stairs. The recommended amendments to s.4.14 aim to improve readability and increase consistency between regulations for porches, decks, patios, and stairs or access ramps. They also have been updated so that similar projections have consistent requirements. For example, the updated regulations provide clarity that roof structures projecting from building are permitted over decks, patios and stairs within a required rear yard setback provided they comply with consistent height and setback regulations regardless of the feature they are covering.

Setbacks where there is a common wall

The proposed changes permit building projections such as porches, decks and stairs to have a 0 metre setback to a side lot line where the principal building shares a common party wall – for example for semi-detached dwellings or street townhouses. The change allows porches and decks to the side lot line rather than requiring a setback and increases the availability of outdoor amenity spaces.

Unobstructed walkways

Amendments are recommended to require that an unobstructed walkway be required to lead to the entrance of all additional dwelling units that do not face a street (the first, second and third additional dwelling unit (attached) and any additional dwelling (detached), and also be required for dwelling units in small multiples (5-10 units) that are not subject to Site Plan control. This will ensure that emergency services personnel, residents and visitors have a clear path of travel from a public street or sidewalk to the unit, and understand how to access the unit. Walkway requirements are recommended to be added to the Zoning By-law for all such dwelling units so that they may be considered applicable law and are enforceable. Regulations are also recommended to be updated to specify that the walkway may connect to the public sidewalk, or where there is no public sidewalk to the street.

Public Service Use

Public service uses can be provided in any zone and may include affordable housing when provided by the City, Region or Province. Staff recommend additional regulation where dwelling units are provided as a public service use to ensure dwelling units will be compatible with uses of surrounding lands. Public service uses are generally required to meet the regulations of the zone. Recommended amendments provide flexibility for how and where dwelling units are located within a building. Regulations governing built form such as setbacks, building height, overall floor space ratio continue to apply. Staff also recommend that affordable housing provided as a public service use should be exempt from minimum parking requirements. Transportation services is satisfied that public service agencies (City, Region and Province) will provide the appropriate amount of parking for the use, in consideration of location, access to transit etc. Minimum bicycle parking, barrier free parking, and parking for non-residential uses continue to apply.

Width of garage interior

The zoning by-law regulates the width of garages to ensure that garages and driveways do not dominate the streetscape. Maximum garage widths vary by dwelling type and geographical location. Zoning By-law 85-1 permits the interior width of a garage to be wider than the façade to allow space for additional storage space (bikes, lawnmowers etc.). Staff recommend adding this regulation to Zoning By-law 2019-051. This design will not impact the streetscape as the façade width of the garage is not changed and additional interior space is stepped back. Further, due to minimum construction requirements for walls, semi-detached dwellings on narrow lots require a slight increase in garage façade width to feasibly locate the minimum parking stall size within a garage. In such instances staff recommend permitting an increase in the private garage width to a maximum of 60%, rather than 50% to accommodate for a 3.0 metre wide garage interior, which is the minimum width of a parking space located inside a garage.

Transition Sunset Clause

Transitional regulations were included in By-law 2019-051 to permit subdivisions to continue to be registered and building permits to be issued for subdivisions approved under the regulations of By-law 85-1. This transition period expires for the residential zones in March 2025. Staff recommend extending this transition period for an additional 4 years for lots zoned RES-3 and RES-4 which generally permit semi-detached and single detached dwellings on smaller lot sizes. Due to market conditions and construction timelines, there are lots in approved and registered plans of subdivision that were approved under By-law 85-1, which have not yet received a building permit. The affected lots, associated building designs and previous Planning Act approvals comply with the regulations of By-law 85-1 and staff is supportive of continuing to permit them to be developed in accordance with the regulations in place at the time draft subdivision approval was granted.

Zoning By-law Conclusions

The above noted amendments to Zoning By-laws 85-1 and 2019-051 will result in more consistent application of the zoning regulations to ensure compliance with the Ontario Building Code and the City of Kitchener Development Manual. The proposed changes are minor and technical. Planning staff are recommending approval of the above noted amendments at this time, and are of the opinion that they represent good planning.

Additional Legal Services Administrator Position

In reviewing the increased workload associated with zoning review and planning approvals, staff have identified the need for additional support in Legal Services through an additional staff resource. Beginning in 2025, staff are proposing to create an additional Legal Services Administrator resource which will be cost shared through the operating budgets of the Planning and Engineering Divisions and recovered through development application fees.

Department and Agency Comments:

Notice of the proposed Annual Zoning By-law Amendment was provided November 8, 2024 to all applicable City departments and other review authorities. No concerns were identified by any commenting City department or agency.

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 will impact the Operating Budget as a result of the creation of a new FTE in the Legal Division. The cost will be shared through the operating budgets of the Planning and Engineering Divisions and recovered through development application fees.

COMMUNITY ENGAGEMENT:

INFORM – Preliminary notice of this application was posted on the City's website in November 2024. This report has been posted to the City's website with the agenda in advance of the council / committee meeting. Notice of the Statutory Public Meeting, held by the Planning and Strategic Initiatives Committee held on January 6, 2025 will be in The Record on December 13, 2024.

PREVIOUS REPORTS/AUTHORITIES:

- Planning Act, R.S.O. 1990, c. P.13
- Provincial Planning Statement, 2024
- Regional Official Plan
- City of Kitchener Official Plan
- City of Kitchener Zoning By-law 85-1
- City of Kitchener Zoning By-law 2019-051

APPROVED BY: Justin Readman – General Manager, Development Services

ATTACHMENTS:

- Attachment A – Proposed Zoning By-law Amendment (85-1)
- Attachment B – Proposed Zoning By-law Amendment (2019-051)
- Attachment C – Zoning Rationale Chart
- Attachment D – Public Notice

PROPOSED BY – LAW

_____, 2024

BY-LAW NUMBER ____

OF THE

CORPORATION OF THE CITY OF KITCHENER

(Being a by-law to amend By-law 85-1, as amended,
known as the Zoning By-law for the City of Kitchener)

WHEREAS it is deemed expedient to amend By-law 85-1;

NOW THEREFORE the Council of the Corporation of the City of Kitchener
enacts as follows:

1. Section 4.2 of By-law Number 85-1 is amended to add the following sentence to the definition of “Building Height”:

“Despite the foregoing, for an additional dwelling (detached), the height shall be measured in accordance with s. 5.22.1 f) and 5.22.1 g) and at no point shall the vertical distance between the lowest elevation of the finished ground immediately surrounding the perimeter of the building and the point to which height is measured as described by the regulations exceed 110% of the maximum permitted building height.”

2. Section 5.6A of By-law Number 85-1 is amended to add new subsection 5.6A.6 as follows:

“5.6A.6 Window Wells

Window wells may project into any required yard, provided that they are located a minimum 0.5 metres to the closest lot line.”

3. Section 5.8 of By-law Number 85-1 is amended to add the portions of the below text that are highlighted in grey, and delete portions of the below text with a strikethrough:

Notwithstanding anything else in this By-law, the City or any of its local boards as defined in The Municipal Affairs Act, The Regional Municipality of Waterloo, ~~Kitchener-Wilmot Hydro Inc.~~ **Enova Power Corp.**, communications or transportation systems owned or operated by or for the citizens and any agency of the Federal or Provincial Government, including Hydro One, **or an organization on behalf of or in partnership with the aforementioned, a public service provider,** may, for the purposes of the public service, use any land or erect or use any building in any zone subject to the use or building being in compliance with the most restrictive regulations contained in such zone and the parking requirements of Section 6.1 for such use and subject to there being no outdoor storage of goods, materials or equipment in any yard abutting a Residential Zone. Any buildings erected or used

in a Residential Zone under the provision of this Section shall be designed so as not to intrude into the residential character of the area. For any public service use that includes *dwelling units* that qualify as *affordable housing* as defined in the Provincial Planning Statement the following shall apply: a dwelling or dwelling unit must be permitted by the zone; residential uses may be located on the ground floor; no minimum or maximum number of dwelling units shall apply; and, parking requirements of Section 6.1.2 shall not apply. This exemption for use in any zone, however, shall not apply to any land or building used by any transportation, communications, telephone or electrical utility company for executive or administrative offices, or retail purposes, or any land or building used by any local school board for secondary school purposes.

4. The title to Section 5.13.3 to By-law 85-1 is amended to add the portions of the below text that are highlighted in grey, and delete portions of the below text with a strikethrough:

~~“.3 Home Businesses permitted in Duplex Dwellings, Multiple Dwellings, Semi Detached Houses containing two dwelling units and Street Townhouse Dwellings, or on any lot containing an Additional Dwelling Unit (Detached) or an Additional Dwelling Unit (Attached) a Dwelling Unit not specified in 5.13.1”~~

5. The title to section 5.13.4 to By-law 85-1 is amended to add the portions of the below text that are highlighted in grey, and delete portions of the below text with a strikethrough:

~~“.4 Regulations for Home Businesses in Duplex Dwellings, Multiple Dwellings, Semi Detached Houses containing two dwelling units and Street Townhouse Dwellings, or on any lot containing an Additional Dwelling Unit(s) (Detached) or Additional Dwelling Unit(s) (Attached) a Dwelling Unit not specified in 5.13.1:”~~

6. Section 5.22 f) of By-law Number 85-1 is amended to add the words “or sidewalk” following the phrase “provided from a street”.

7. Section 5.22.1 d) of By-law Number 85-1 is deleted.

8. Section 5.22.2 of By-law Number 85-1 is amended to add new subsection b) as follows:

“b) Despite the definition of Dwelling Unit, one Additional Dwelling Unit (Attached) may have the required private entrance through the living space of the principal unit excluding a bathroom or bedroom, as may be permitted by the Ontario Building Code.”

9. Section 5.22.3 b) of By-law Number 85-1 is amended to add the sentence “Despite the foregoing, where Additional Dwelling Unit(s) (Attached) are being added to an existing Single Detached Dwelling, Semi-Detached Dwelling or Street Townhouse Dwelling which does not have a pedestrian entrance facing a street line, the minimum number shall be zero;” following the word “line”.

10. Section 5.22.3 c) of By-law Number 85-1 are amended to add the sentence “Despite the foregoing, pedestrian entrances located below grade, and those leading to a balcony which does not connect to the ground shall be excluded;” following the word “existing”.
11. Section 5.22.3 d) of By-law Number 85-1 is deleted.
12. Section 5.33 of By-law Number 85-1 is amended to add new subsection e) as follows:

“e) An unobstructed walkway that is a minimum 1.1 metres in width, shall be provided from a street or sidewalk to the principal entrance of each Dwelling Unit or to a common entrance providing access to each Dwelling Unit.”

PASSED at the Council Chambers in the City of Kitchener this
day of _____, 2025.

Mayor

Clerk

BY-LAW NUMBER _____
OF THE
CORPORATION OF THE CITY OF KITCHENER
(Being a by-law to amend By-law 2019-051, as amended,
known as the Zoning By-law for the City of Kitchener
– Annual Zoning By-law Update)

WHEREAS it is deemed expedient to amend By-law 2019-051;

NOW THEREFORE the Council of the Corporation of the City of Kitchener enacts as follows:

1. Section 3 of By-law Number 2019-051 is amended to add the portions of the below text that are highlighted in grey, and delete portions of the below text with a strikethrough in the following definitions:

“Building Height – means the vertical distance between the highest elevation of the finished ground immediately surrounding the perimeter of the *building* and ~~the point to which height is measured as described by the regulations~~ *uppermost point of the building*. For all ~~uses~~ *buildings* except a *single detached dwelling* with or without *additional dwelling unit(s) (attached)* at no point shall the vertical distance between the lowest elevation of the finished ground immediately surrounding the perimeter of the *building* and ~~the uppermost point of the building~~ *the point to which height is measured as described by the regulations* exceed 110% of the maximum *building height* in the applicable zone.”

“Storey – means the portion of a *building* or *structure* that is situated between the ~~top~~ *surface of any floor and the top surface of the floor next above it; or if there is no floor above it, that portion between the top surface of the floor and the underside of the ceiling above it. A habitable or finished attic, or an uninhabitable or unfinished attic with an interior height greater than 1.8 metres, is a storey. For the purposes of calculating the minimum or maximum number of storeys, the ground floor and any storey above it shall be included as a storey.*”

“Use, Public – means the *use* of any land, *building*, or *structure* by, on behalf of, or in ~~partnership with~~, the Federal or *Provincial* governments, the *Region*, the Grand River Conservation Authority, or the *City*.”

2. Subsection 4.7.1 of By-law 2019-051 is amended to add the portions of the below text that are highlighted in grey, and delete portions of the below text with a strikethrough:

“4.7.1 Regulations for Home Occupations

- a) A *home occupation* shall only be permitted on a *lot* containing a ~~single detached dwelling (with or without an additional dwelling unit (attached) or additional dwelling unit (detached), semi-detached dwelling (with or without an additional dwelling unit (attached) or additional dwelling unit (detached), street townhouse dwelling (without an additional dwelling unit (attached) or additional dwelling unit (detached), cluster townhouse dwelling, or multiple dwelling~~ dwelling unit.
- b) A *home occupation* shall only locate in a *dwelling unit*.
- c) A *home occupation* shall only be operated by the persons resident in the *dwelling unit*.
- d) Outdoor storage shall not be permitted as part of a *home occupation*.
- e) A *home occupation* shall not include a noxious use.”

3. Table 4-2 of By-law 2019-051 is amended to add the portions of the below text that are highlighted in grey, and delete portions of the below text with a strikethrough:

“Table 4-2: Permitted Home Occupation Uses

Permitted *home occupation* use on a lot containing a *single detached dwelling* or a *semi-detached dwelling unit* (without an *additional dwelling unit (attached)* or *additional dwelling unit (detached)*) (1)(2)(3)(4)

Home Occupation Use	First Home Occupation Use	Second Home Occupation Use
<i>Artisan’s Establishment</i>	✓	
<i>Bed and Breakfast (5)(6)</i>	✓	
<i>Canine and Feline Grooming Establishment (5)(7)</i>	✓	
<i>Catering Service Establishment</i>	✓	
<i>Commercial School</i>	✓	
<i>Health Office</i>	✓	
<i>Indirect Sales</i>	✓	✓
<i>Light Repair Operation</i>	✓	
<i>Office</i>	✓	✓
<i>Personal Services (8)</i>	✓	
<i>Private Home Day Care (11)</i>	✓	

Permitted *home occupation* use in any dwelling unit within a ~~single detached dwelling with additional dwelling unit(s) (attached) or additional dwelling unit(s) (detached), semi-detached dwelling unit with additional dwelling unit(s) (attached) or additional dwelling unit(s) (detached), street townhouse dwelling with an additional dwelling unit(s) (attached) or additional dwelling unit(s) (detached), cluster townhouse dwelling, or multiple dwelling~~ (9)(10).

Home Occupation Use	First Home Occupation Use	Second Home Occupation Use
<i>Artisan's Establishment</i>	✓	
<i>Commercial School</i>	✓	
<i>Office</i>	✓	
<i>Indirect Sales</i>	✓	

Additional Regulations for Permitted Home Occupation Uses Table 4-2.

(1) A maximum of two *home occupations* shall be permitted on a *lot*. The total maximum *gross floor area* for all *home occupations* on a lot is 25 percent of the *gross floor area* of the *dwelling unit*. In no case shall the *gross floor area* for all *home occupations* exceed 50 square metres of *gross floor area*.

(2) A *home occupation* shall be conducted so as to not attract more than three customers or clients at any one time.

(3) Despite Section 4.7.1 b), an *artisan's establishment, office, or indirect sales home occupation*, that does not attract customers or clients to the *lot*, may locate in an *accessory building*.

(4) Despite Section 4.7.1 c), in addition to the resident, a *home occupation* may employ one non-resident employee.

(5) Only within a *single detached dwelling*.

(6) A maximum of two bedrooms is permitted within a *bed and breakfast*.

(7) A maximum of two dogs and two cats associated with the *canine and feline grooming establishment* are permitted at any one time, for a maximum of three hours on any given day during regular operating hours.

(8) Shall not include the cleaning of apparel.

(9) A *home occupation* shall be conducted so as to not attract more than one customer or client to the premises at any one time.

(10) A maximum of one *home occupation* shall be permitted within each *dwelling unit* to a maximum of 15 square metres of *gross floor area*.

(11) A *private home day care* is also permitted on a *lot* containing a *street townhouse dwelling* (without an *additional dwelling unit (attached)* or *additional dwelling unit (detached)*)."

4. Subsection 4.12.1 of By-law Number 2019-051 is amended by inserting a new subsections c) and d) thereto:

- “c) An *unobstructed walkway* that is a minimum 1.1 metres in width shall be provided from a *street* or sidewalk to the *principal* entrance of each *new additional dwelling unit (attached)*, where the *principal* entrance is not located on a *street line façade*.
- d) Despite the definition of *dwelling unit*, one *Additional Dwelling Unit (attached)* may have the required private entrance through the living space of the *principal* unit excluding a bathroom or bedroom, as may be permitted by the Ontario Building Code.”

5. Subsection 4.12.2 c) of By-law Number 2019-051 is amended to add the portions of the below text that are highlighted in grey, and delete portions of the below text with a strikethrough:

- “c) a minimum of one pedestrian entrance to the *principal building* is required to face a *street line*. Despite the foregoing, where *additional dwelling unit(s) (attached)* are being added to an *existing dwelling* which does not have a pedestrian entrance facing a *street line*, the minimum number shall be zero;“

6. Subsection 4.12.2 d) of By-law Number 2019-051 is amended to add the portions of the below text that are highlighted in grey, and delete portions of the below text with a strikethrough:

- “d) A maximum of two pedestrian entrances shall be permitted to face each *street line*, except where more pedestrian entrances are existing. Despite the foregoing, pedestrian entrances located *below grade*, and those leading to a *balcony which does not connect to the ground* shall be excluded;”

7. Subsection 4.12.2 f) of By-law Number 2019-051 is deleted.

8. Subsection 4.12.3 f) of By-law Number 2019-051 is deleted.

9. Section 4.12.4 of By-law Number 2019-051 is amended by inserting a new subsection e) thereto:

- “e) An *unobstructed walkway* that is a minimum 1.1 metres in width, shall be provided from a *street* or sidewalk to the *principal* entrance of each *dwelling unit* or to a common entrance providing access to each *dwelling unit*.”

10. Subsection 4.14.4 of By-law Number 2019-051 is deleted in its entirety and replaced with the following:

“4.14.4 Porches and Decks

Porches and decks, whether or not covered, shall meet the regulations required for the *building* with which it is associated in the applicable *zone*.

Despite the foregoing, in a *residential zone*:

- a) When located in a *front yard* or *exterior side yard*, an unenclosed porch or deck associated with an entrance to a *dwelling unit*, whether or not covered, may project into a required *front yard* or *exterior side yard* provided that the porch or deck:
- i. is located a minimum of 3 metres from a *street line* and the floor of the porch or deck does not exceed 1 metre in height above the ground. A cold room may be located beneath the porch or deck.
 - ii. has a minimum depth of 1.5m; or in the case of an existing porch or deck with a depth of less than 1.5 metres, the minimum depth shall be the existing depth.
 - iii. despite Subsection i) and ii), a porch or deck attached to the *principal building* of a *lot* or *structure* designated under the Ontario Heritage Act may be located or reconstructed within a required *front yard* or *side yard* provided that the *setback*, *gross floor area*, dimensions, and height do not exceed what legally existed on or before March 5, 2012.
- b) When located within a *rear yard*:
- i. an unenclosed and uncovered porch or deck that does not exceed 0.6 metres in height above the ground, may be located in the required *rear yard*.
 - ii. an unenclosed and uncovered porch or deck that exceeds 0.6 metres in height above the ground, may be located in a required *rear yard* provided that it is located a minimum of 4 metres from the *rear lot line*, and meets the *interior side yard and exterior side yard setback* regulations required for the *dwelling* type with which it is associated.
 - iii. A roof *structure* projecting from a *building* over an unenclosed porch or deck, shall be considered part of the *building* to which it is attached. A roof *structure* attached to the *principal building*, may project into a required *rear yard* provided that:
 - a. it is located a minimum of 4 metres from the *rear lot line*,
 - b. meets the *interior side yard and exterior side yard setback* regulations required for the *dwelling* in the applicable zone, and
 - c. the roof *structure* over the porch or deck has a maximum height of 5.5 metres to the peak and 3.0 metres to the underside of any fascia measured from the ground immediately surrounding the roof *structure* for any portion which projects into the required rear yard.
- c) When located within an *interior side yard*, an unenclosed and uncovered porch or deck that does not exceed 0.6 metres in height above the ground, may be located within a required *interior side yard*.
- d) despite subsections a), b) and c) for a *semi-detached dwelling* or *street townhouse dwelling* a porch or deck which is attached to the *principal dwelling*, and any permitted covering or roof *structure*, may be *setback* 0 metres from an *interior lot line* on which there is a shared common wall.”

11. Section 4.14.7 of By-law Number 2019-051 is deleted in its entirety and replaced with the following:

“4.14.7 Patios

- a) Any required private patio shall be a minimum of 11 square metres in size.
- b) An uncovered and unenclosed patio is permitted in any *yard*.
- c) A roof *structure* projecting from a *building* over an unenclosed patio, shall be considered part of the *building* to which it is attached.
- d) Despite Subsection c), in a *residential zone* a roof *structure* over an unenclosed patio, which is attached to the *principal building*, may be located within a required *rear yard* provided that it is *setback* a minimum of 4 metres from the *rear lot line*, meets the *interior side yard* and *exterior side yard setback* regulations required for the *dwelling* in the applicable zone, and the roof *structure* over the patio has a maximum height of 5.5 metres to the peak and 3.0 metres to the underside of any fascia.”

12. Section 4.14.8.2 of By-law Number 2019-051 is deleted in its entirety.

13. Section 4.14.10 of By-law Number 2019-051 is deleted in its entirety and replaced with the following:

“4.14.10 Steps and Access Ramps

Steps and access ramps may be permitted in any required *yard*, provided the maximum area of steps and access ramps located in a *front yard* or *exterior side yard* shall not exceed 40 percent of the area of the *front yard* or *exterior side yard*.

Despite the foregoing, in a *residential zone* the following shall apply:

- a) within a *front yard* or *exterior side yard* steps and access ramps, shall be located a minimum of 3.0 metres from a *street line* and 0.5 metres from an *interior side lot line* or *rear lot line*.
 - i) despite subsection a) uncovered steps and access ramps that are located at ground level may be *setback* a minimum of 0 metres to the *street line*.
 - ii) Despite subsection a) uncovered steps and access ramps that do not exceed 0.6 metres below ground level or 0.6 metres above ground level may be *setback* a minimum of 1 metre from the *street line*.
- b) within an *interior side yard* steps and access ramps, whether located at ground level, above ground level or below ground level shall be located a minimum of 0.5 metres from the closest *lot line*.
 - i) Despite subsection b) steps and access ramps that exceed 0.6 metres above ground level shall be located a minimum of 0.75 metres from the closest *lot line*, and portions of steps and access ramps that provide access above the

ground floor storey shall be located a minimum of 1.2 metres from the closest *lot line*.

- c) Within a *rear yard* steps and access ramps that exceed 0.6 metres above ground level shall be located a minimum of 0.75 metres from the closest *lot line*, and portions of steps and access ramps that provide access above the *ground floor storey* shall be located a minimum of 1.2 metres from the closest *lot line*.
- d) Despite Subsections a) and b) steps and access ramps located in a *front yard* or *interior side yard* leading to a principal entrance of a *semi-detached dwelling* or a *street townhouse dwelling* may be set back 0 metres from the *interior lot line* on which there is a shared common wall.
- e) A roof *structure* projecting from a *building* over steps or access ramps shall be considered a part of the building to which it is attached.
 - i) Despite Subsection e), a roof *structure* may project into a required *interior side yard* provided that it is located no closer to the *side lot line* than the steps or access ramp, and the roof *structure* has a maximum *height* of 5.5 metres to the peak and 3.0 metres to the underside of any fascia measured from the ground immediately surrounding the roof *structure*.
 - ii) Despite Subsection e), a roof *structure* may project into a required *rear yard* provided that it is setback a minimum of 4 metres from the *rear lot line*, is located no closer to the *side lot line* than the steps or access ramp, meets the *interior side yard* and *exterior side yard setback* regulations required for the *dwelling* in the applicable zone, and the roof *structure* has a maximum *height* of 5.5 metres to the peak and 3.0 metres to the underside of any fascia measured from the ground immediately surrounding the roof structure for any portion which projects into the required *side yard* or *rear yard*.”

14. Section 4.14 of By-law Number 2019-051 is amended by inserting a new subsection 4.14.11 thereto:

“Section 4.14.11 Window Wells

Window wells may project into any required *yard*, provided that in a *residential zone* they are located a minimum of 0.5 metres to the closest *lot line*.”

15. Section 4.15.7 a) of By-law Number 2019-051 is amended to add the text below following the first paragraph:

“Despite the foregoing, for any *public use* containing *dwelling units* that qualify as affordable housing as defined in the Provincial Planning Statement:

- a. a *dwelling* or *dwelling unit* shall be permitted by the applicable zone;
- b. despite the regulations of the applicable zone *residential uses* may occupy 100% of *gross floor area*, 100% of the *street line ground floor*, and no minimum or maximum number of dwelling units shall apply.
- c. minimum *parking space* requirements of Table 5-5 shall not apply.

16. Section 5.1 of By-law Number 2019-051 is amended to add the below text highlighted in grey:

“5.1 APPLICABILITY

- a) The provisions of Section 5 herein shall only apply at such time as there is:
 - i) A change in use or number of dwelling units; and/or,
 - ii) An increase in *gross floor area* on the *lot*; and/or,
 - iii) A change in the amount, size and/or location of *existing parking spaces*, *existing driveways*, or *existing drive aisles*.

- b) Despite Subsection a) i), the provisions of Section 5 herein shall not apply to *existing parking spaces*, *existing driveways*, *existing garage projections*, *existing private garage width*, *existing loading spaces*, *existing stacking spaces* or *existing stacking lanes* on a *lot* where there is a change of use or increase in the number of *dwelling units* within an *existing building* or *existing structure* and:
 - i) There is no increase in *gross floor area* on the *lot*; and,
 - ii) The *Class B bicycle parking* and *Class C bicycle parking* provisions are complied with; and,
 - iii) The number of *existing parking spaces* and *stacking spaces* that remain on the *lot* is equal to or greater than the minimum *parking spaces* and minimum *stacking spaces* required for the *new use* or *new number of dwelling units* in accordance with Table 5-5, 5-6 and Table 5-7.”

17. Section 5.4 f) of By-law Number 2019-051 is amended by adding the words “except in a RES-1 zone where it may be as wide as an attached garage.” following the word “width”.

18. Table 5-2 of By-law Number 2019-051 is amended by adding additional regulation “(1)” following the regulation contained in column 2, row 2; column 2, row 3; and column 2, row 4; and to add new additional regulation (1) after Table 5-2 follows:

- “(1) Notwithstanding the maximum *private garage width*, a storage alcove may be incorporated into an attached garage and may extend beyond the maximum *private garage width* provided that:
- a) the storage alcove is stepped back a minimum of 1.5 metres from the *street line façade* of the attached garage, with habitable interior space between the alcove and the *street line façade* of the building; and
 - b) the entire width of the attached garage including both the vehicular parking area and the storage alcove shall not exceed 80% of the width of the *street line façade* at the ground level (measured from the centreline of an interior garage wall and the outside of an exterior wall).“

19. Table 5-3 of By-law Number 2019-051 is amended by adding additional regulation “(1)” following the regulation contained in column 2, row 2; column 2, row 3; and column 2, row 4; and to add new additional regulation (1) after Table 5-3 follows:
“(1) Notwithstanding the maximum *private garage width*, a storage alcove may be incorporated into an attached garage and may extend beyond the maximum *private garage width* provided that:
a) the storage alcove is stepped back a minimum of 1.5 metres from the *street line façade* of the attached garage; and
b) the entire width of the garage including both the vehicular parking area and the storage alcove shall not exceed 80% of the width of the *street line façade* at the ground level (measured from the centreline of the interior garage wall to the outside of the exterior wall). “
20. Table 5-3 of By-law Number 2019-051 is amended by adding additional regulation “(2)” following the additional regulation contained in column 2, row 3; and to add new additional regulation (2) after Table 5-3 as follows:
“(2) despite the maximum *private garage width*, where a *semi-detached dwelling unit* is located on a *lot* having a width between 7.5 metres and 8.0 metres, the maximum *private garage width* may be increased to a maximum of 60% of the front *façade* closest to the *street* at the ground level, and only as much is strictly necessary in order to provide an interior garage width of 3.0 metres.”
21. Additional Regulation (5) for Permitted Uses Table 7-2 of By-law Number 2019-051 is amended to add “or where one *additional dwelling unit (attached)* is added to a *single detached dwelling* without any *existing additional dwelling units (attached)* or *additional dwelling units (detached)*, where there is no increase to *existing gross floor area*” following the word “(attached)”.
22. Table 7-2 of By-law Number 2019-051 is amended by adding additional regulation “(7)” following additional regulation “(3)” contained in row 5, column 2; row 5, column 3; row 5, column 4; row 5, column 5; row 5, column 6, and to add new additional regulation (7), in the proper sequential order, after Table 7-2 as follows:
“(7) despite the minimum *front yard* or *exterior side yard setback*, the vehicular entrance to any *private garage* shall be located a minimum of 6 metres from the *street line*”.
23. Additional Regulation (3) for Permitted Uses Table 7-3 of By-law Number 2019-051 is amended to add “or where one *additional dwelling unit (attached)* is added to a *semi-detached dwelling unit* without any *existing additional dwelling units (attached)* or *additional dwelling units (detached)*, where there is no increase to *existing gross floor area*” following the word “(attached)”.
24. Table 7-3 of By-law Number 2019-051 is amended by adding additional regulation “(5)” following additional regulation “(1)” contained row 5, column 4; row 5, column 5; row 5, column 6, and to add new additional regulation (5), in the proper sequential order, after Table 7-3 as follows:

“(5) despite the minimum *front yard* or *exterior side yard setback*, the vehicular entrance to any *private garage* shall be located a minimum of 6 metres from the *street line*”

25. Additional Regulation (4) for Permitted Uses Table 7-4 of By-law Number 2019-051 is amended to add “or where one *additional dwelling unit (attached)* is added to a *street townhouse dwelling unit* without any *existing additional dwelling units (attached)* or *additional dwelling units (detached)*, where there is no increase to *existing gross floor area*” following the word “(attached)”.

26. Table 7-4 of By-law Number 2019-051 is amended by adding additional regulation “(6)” following additional regulation “(1)” contained in row 6, column 5; row 6, column 6, and to add new additional regulation (6), in the proper sequential order, after Table 7-4 as follows:

“(6) despite the minimum *front yard* or *exterior side yard setback*, the vehicular entrance to any *building* used to accommodate off-street parking shall be located a minimum of 6 metres from the *street line*”

27. Table 7-4 of By-law Number 2019-051 is amended by adding additional regulation “(7)” following the regulation contained in row 3, column 5 and to add new additional regulation (7), in the proper sequential order, after Table 7-2 as follows:

“(7) despite the minimum *lot width* regulation, the minimum *lot width* for a *street townhouse dwelling* located on a *lot* or block which was created by Plan of Subdivision and which received Draft Plan approval prior to the effective date of this by-law shall be 5.5 metres.”

28. Table 7-4 of By-law Number 2019-051 is amended by adding additional regulation “(8)” following the regulation contained row 8, column 5; row 8, column 6, and to add new additional regulation (8), in the proper sequential order, after Table 7-4 as follows:

“(8) Despite the minimum *interior side yard* setback, for any portion of a wall located on an *interior side yard* having a common-wall, but not forming part of a common-wall, the *minimum interior side yard setback* shall be 1.2 metres.”

29. Subsection 7.6 of By-law Number 2019-051 is amended to add new subsection c) as follows:

“c) Despite subsection a) and b) where there are no changes to an *existing front yard setback* the *existing front yard* is the *established front yard*.”

30. Table 8-1 of By-law Number 2019-051 is amended by adding “Home Occupation” as a permitted use in column one in the correct alphabetical order and adding checkmarks (✓) to indicate that Home Occupation is a permitted use in the MIX-1, MIX-2, and MIX-3 zones.

31. Table 8-1 of By-law Number 2019-051 is amended by adding additional regulation “(9)” following the use “*Home Occupation*” in column one, and to add new additional regulation (9), in the proper sequential order, after Table 8-1 as follows:

“(9) shall be permitted in accordance with 4.7”

32. Section 18 of By-law Number 2019-051 is amended to add new section 18.6 as follows:

“18.6 TRANSITION SUNSET CLAUSE – RES-3 & RES-4 ZONED LOTS

Despite Section 18.3, Sections 18.1, 18.2 a), b) and d), and 18.6, as they apply to *lots* zoned RES-3 and RES-4, are automatically repealed on the seventh anniversary of the *effective date* of this By-law, and the provisions of Section 34(9) of the Planning Act shall thereafter apply in respect of any *buildings, structures, or uses* established or erected pursuant to any such complete application.”

PASSED at the Council Chambers in the City of Kitchener this day of , 2025.

Mayor

Clerk

Existing Section/Regulation (By-law 2019-051)	Proposed Amendment	Rationale
Section 1 – General Scope and Administration		
Section 3 – Definitions		
<p>Building Height – means the vertical distance between the highest elevation of the finished ground immediately surrounding the perimeter of the building and the uppermost point of the building. For all uses except a single detached dwelling with or without additional dwelling unit(s) (attached), at no point shall the vertical distance between the lowest elevation of the finished ground immediately surrounding the perimeter of the building and the uppermost point of the building exceed 110% of the maximum building height in the applicable zone.</p>	<p>AMEND Building Height – means the vertical distance between the highest elevation of the finished ground immediately surrounding the perimeter of the <i>building</i> and the point to which height is measured as described by the regulations uppermost point of the <i>building</i>. For all uses except a <i>single detached dwelling</i> with or without <i>additional dwelling unit(s) (attached)</i> at no point shall the vertical distance between the lowest elevation of the finished ground immediately surrounding the perimeter of the <i>building</i> and the uppermost point of the building the point to which height is measured as described by the regulations exceed 110% of the maximum building height in the applicable zone.</p>	<p>Height measurements for different building types are calculated to different points of the building. For example a detached additional dwelling is often calculated to the mid-point of the roof rather the peak. The updated regulation permits 110% height to be calculated using the height measurement specified in the by-law (for example this could be the uppermost point or mid-point of the roof depending on the building type).</p>
<p>Storey – means the portion of a building or structure that is situated between the top of any floor and the top of the floor next above it; or if there is no floor above it, that portion between the top of the floor and the ceiling above it. A habitable or finished attic, or an uninhabitable or unfinished attic with an interior height greater than 1.8 metres, is a storey.</p>	<p>AMEND Storey – means the portion of a <i>building or structure</i> that is situated between the top surface top surface of any floor and the top surface underside of the ceiling above it, that portion between the top surface underside of the ceiling above it. A habitable or finished <i>attic</i>, or an uninhabitable or unfinished <i>attic</i> with an interior height greater than 1.8 metres, is a <i>storey</i>. For the purposes of calculating the minimum or maximum number of storeys, the ground floor and any storey above it shall be included as a storey.</p>	<p>Clarify definition and specify that the ground floor and floors above are considered storeys. The updated definition will align with Ontario Building Code and building application of ground floor. Overall height and Floor Space Ratio will continue to apply, where applicable, and will limit height and mass of a building.</p>
<p>Use, Public – means the use of any land, building, or structure by or on behalf of the Federal or Provincial governments, the Region, the Grand River Conservation Authority, or the City</p>	<p>AMEND Use, Public – means the <i>use of any land, building, or structure</i> by, on behalf of, or in partnership with, the Federal or <i>Provincial</i> governments, the <i>Region</i>, the Grand River Conservation Authority, or the <i>City</i>.</p>	<p>Amend to indicate that a use may be considered a public service use if delivered by another party in partnership with the public body.</p>
Section 4 – General Regulations		
4.7 HOME OCCUPATION		
<p>4.7.1 Regulations for Home Occupations a) A home occupation shall only be permitted on a lot containing a single detached dwelling (with or without an additional dwelling unit (attached) or additional dwelling unit (detached), semi-detached dwelling (with or without an additional dwelling unit (attached) or additional dwelling unit (detached), street townhouse dwelling (without an additional dwelling unit (attached) or additional dwelling unit (detached), cluster townhouse dwelling, or multiple dwelling. b) A <i>home occupation</i> shall only locate in a <i>dwelling</i>.</p>	<p>AMEND 4.7.1 Regulations for Home Occupations a) A home occupation shall only be permitted on a lot containing a single detached dwelling (with or without an additional dwelling unit (attached) or additional dwelling unit (detached), semi-detached dwelling (with or without an additional dwelling unit (attached) or additional dwelling unit (detached), street townhouse dwelling (without an additional dwelling unit (attached) or additional dwelling unit (detached), cluster townhouse dwelling, or multiple dwelling dwelling unit. b) A <i>home occupation</i> shall only locate in a <i>dwelling</i> unit.</p>	<p>Simplify wording to permit a home business in any dwelling unit. This will allow home occupation uses anywhere a dwelling unit is permitted, including in a mixed use building or in a commercial building where dwelling units are permitted. And clarify that the home occupation may only be in the dwelling unit.</p>

Existing Section/Regulation (By-law 2019-051)	Proposed Amendment	Rationale																																																																								
<p>Table 4-2: Permitted Home Occupation Uses (first heading)</p> <p>Table 4-2: Permitted Home Occupation Uses</p> <p>Permitted home occupation use on a lot containing a single detached dwelling or a semi-detached dwelling unit (without an additional dwelling unit (attached) or additional dwelling unit (detached)) (1)(2)(3)(4)</p> <table border="1" data-bbox="183 455 1134 895"> <thead> <tr> <th>Home Occupation Use</th> <th>First Home Occupation Use</th> <th>Second Home Occupation Use</th> </tr> </thead> <tbody> <tr><td>Artisan's Establishment</td><td>✓</td><td></td></tr> <tr><td>Bed and Breakfast (5)(6)</td><td>✓</td><td></td></tr> <tr><td>Canine and Feline Grooming Establishment (5)(7)</td><td>✓</td><td></td></tr> <tr><td>Catering Service Establishment</td><td>✓</td><td></td></tr> <tr><td>Commercial School</td><td>✓</td><td></td></tr> <tr><td>Health Office</td><td>✓</td><td></td></tr> <tr><td>Indirect Sales</td><td>✓</td><td>✓</td></tr> <tr><td>Light Repair Operation</td><td>✓</td><td></td></tr> <tr><td>Office</td><td>✓</td><td>✓</td></tr> <tr><td>Personal Services (8)</td><td>✓</td><td></td></tr> <tr><td>Private Home Day Care</td><td>✓</td><td></td></tr> </tbody> </table>	Home Occupation Use	First Home Occupation Use	Second Home Occupation Use	Artisan's Establishment	✓		Bed and Breakfast (5)(6)	✓		Canine and Feline Grooming Establishment (5)(7)	✓		Catering Service Establishment	✓		Commercial School	✓		Health Office	✓		Indirect Sales	✓	✓	Light Repair Operation	✓		Office	✓	✓	Personal Services (8)	✓		Private Home Day Care	✓		<p>Table 4-2: Permitted Home Occupation Uses (first heading)</p> <p>ADD (11) to private home day care</p> <p>Table 4-2: Permitted Home Occupation Uses</p> <p>Permitted home occupation use on a lot containing a single detached dwelling or a semi-detached dwelling unit (without an additional dwelling unit (attached) or additional dwelling unit (detached)) (1)(2)(3)(4)</p> <table border="1" data-bbox="1246 455 2197 895"> <thead> <tr> <th>Home Occupation Use</th> <th>First Home Occupation Use</th> <th>Second Home Occupation Use</th> </tr> </thead> <tbody> <tr><td>Artisan's Establishment</td><td>✓</td><td></td></tr> <tr><td>Bed and Breakfast (5)(6)</td><td>✓</td><td></td></tr> <tr><td>Canine and Feline Grooming Establishment (5)(7)</td><td>✓</td><td></td></tr> <tr><td>Catering Service Establishment</td><td>✓</td><td></td></tr> <tr><td>Commercial School</td><td>✓</td><td></td></tr> <tr><td>Health Office</td><td>✓</td><td></td></tr> <tr><td>Indirect Sales</td><td>✓</td><td>✓</td></tr> <tr><td>Light Repair Operation</td><td>✓</td><td></td></tr> <tr><td>Office</td><td>✓</td><td>✓</td></tr> <tr><td>Personal Services (8)</td><td>✓</td><td></td></tr> <tr><td>Private Home Day Care</td><td>✓</td><td></td></tr> </tbody> </table> <p>(11) A private home day care is also permitted on a lot containing a street townhouse dwelling (without an additional dwelling unit (attached) or additional dwelling unit (detached)).</p>	Home Occupation Use	First Home Occupation Use	Second Home Occupation Use	Artisan's Establishment	✓		Bed and Breakfast (5)(6)	✓		Canine and Feline Grooming Establishment (5)(7)	✓		Catering Service Establishment	✓		Commercial School	✓		Health Office	✓		Indirect Sales	✓	✓	Light Repair Operation	✓		Office	✓	✓	Personal Services (8)	✓		Private Home Day Care	✓		<p>Permitting a private home daycare in a street townhouse dwelling. Region permits licensed home day cares in street townhouse dwelling. Aligning our permissions with the Region. Was previously permitted in By-law 85-1.</p>
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<p>Table 4-2: Permitted Home Occupation Uses</p> <p>(9) A home occupation shall be conducted so as to not attract more than one customer or client at any one time.</p>	<p>AMEND Table 4-2: Permitted Home Occupation Uses (second heading)</p> <p>(9) A home occupation shall be conducted so as to not attract more than one customer or client to the premises at any one time.</p>	<p>Clarification of wording.</p>																																																																								
<p>4.12.1 One Additional Dwelling Unit (Attached)</p> <p>One additional dwelling unit (attached) may be permitted in association with a single detached dwelling, semi-detached dwelling unit or street townhouse dwelling unit in accordance with the regulations specified by the zone category in which an additional dwelling unit (attached) is permitted, and the dwelling type in which the additional dwelling unit (attached) is located and subject to and as amended by the following:</p>	<p>4.12.1 One Additional Dwelling Unit (Attached)</p> <p>ADD c) & d)</p> <p>c) An unobstructed walkway that is a minimum 1.1 metres in width, shall be provided from a street or sidewalk to the principal entrance of each new additional dwelling unit (attached), where the principal entrance is not located on a street line façade.</p>	<p>Adding requirement for unobstructed walkway to duplex. This was included in 85-1 and for 2 – 3 ADUs. It should be added to 2019-051 for consistency and to ensure emergency and tenant access to dwellings no matter the ADU type.</p>																																																																								

Existing Section/Regulation (By-law 2019-051)	Proposed Amendment	Rationale
<p>a) One additional dwelling unit (attached) shall only be located in the same building as a single detached dwelling, semi-detached dwelling, or street townhouse dwelling;</p> <p>b) An additional dwelling unit (attached) shall be connected to full municipal services.</p> <p>Unless otherwise provided for in this By-law, in any zone where a single detached dwelling with one additional dwelling unit (attached) is permitted, a new dwelling with two dwelling units shall also be permitted and considered a single detached dwelling with an additional dwelling unit (attached) in accordance with regulations specified by the zone category and in this section.</p>	<p>d) <i>Despite the definition of dwelling unit, one Additional Dwelling Unit (attached) may have the required private entrance through the living space of the principal unit excluding a bathroom or bedroom, as may be permitted by the Ontario Building Code."</i></p>	<p>Clarifying that the walkway shall connect to the sidewalk or the street.</p> <p>Add regulation d) to permit one additional dwelling unit to be accessed via living space of the principal unit to align with building code permissions.</p>
<p>4.12.2 Two or Three Additional Dwelling Units (Attached)</p> <p>Two (2) or Three (3) additional dwelling units (attached) may be permitted in association with a single detached dwelling, semi-detached dwelling unit or street townhouse dwelling unit in accordance with the regulations specified by the zone category in which additional dwelling unit(s) (attached) are permitted, and the dwelling type in which the additional dwelling unit(s) (attached) are located and subject to and as amended by the following:</p> <p>c) A minimum of one pedestrian entrance to the principal building is required to face a street line;</p> <p>d) A maximum of two pedestrian entrances shall be permitted to face each street line, except where more pedestrian entrances are existing;</p> <p>f) Where a lot is located farther than 800 metres from a Light Rail Transit (LRT) station as shown on Appendix E, and outside the Central Neighbourhood Area as shown on Appendix C – Central Neighbourhood Area the minimum lot area shall be 360 square metres or in accordance with Table 7-2, 7-3 or 7-4, as may be applicable for the principal dwelling type in which the additional dwelling unit (attached) is located, whichever is greater;</p>	<p>AMEND 4.12.2 Two or Three Additional Dwelling Units (Attached)</p> <p>Two (2) or Three (3) additional dwelling units (attached) may be permitted in association with a single detached dwelling, semi-detached dwelling unit or street townhouse dwelling unit in accordance with the regulations specified by the zone category in which additional dwelling unit(s) (attached) are permitted, and the dwelling type in which the additional dwelling unit(s) (attached) are located and subject to and as amended by the following:</p> <p>c) A minimum of one pedestrian entrance to the principal building is required to face a street line. <i>Despite the foregoing, where additional dwelling unit(s) (attached) are being added to an existing dwelling which does not have a pedestrian entrance facing a street line, the minimum number shall be zero;</i></p> <p>d) A maximum of two pedestrian entrances shall be permitted to face each street line, except where more pedestrian entrances are existing. <i>Despite the foregoing, pedestrian entrances located below grade, and those leading to a balcony which does not connect to the ground shall be excluded;</i></p> <p>f) Where a lot is located farther than 800 metres from a Light Rail Transit (LRT) station as shown on Appendix E, and outside the Central Neighbourhood Area as shown on Appendix C – Central Neighbourhood Area the minimum lot area shall be 360 square metres or in accordance with Table 7-2, 7-3 or 7-4, as may be applicable for the principal dwelling type in which the additional dwelling unit (attached) is located, whichever is greater;</p>	<p>Further clarifications for doors and entrances:</p> <ul style="list-style-type: none"> - permitting existing dwellings that do not currently have a door fronting onto the street to continue to have no door fronting the street. Certain architectural styles (e.g., mid-century) may have doors in the side façade rather than facing the street. It is not reasonable to require a homeowner to add a door facing the street if none exists currently. - allowing doors leading to balconies to face the street and doors leading to below grade entrances. These doors can contribute to the street-facing elevations and provide access to private amenity spaces. The intent of the regulation is to avoid facades where the entire ground floor façade consists of front doors. <p>O.Reg 462/24 legislates that municipalities cannot impose a minimum lot area for ADUs beyond the size required for the first unit. While the provincial regulations only apply to 3 dwelling units on a lot, planning staff recommended that this be extended to 4 units as the impacts are similar and the spirit of the change is to facilitate additional housing. The minimum lot width continues to apply and provides sufficient width for driveways.</p>
<p>4.12.3 Additional Dwelling (Detached)</p> <p>f) Where a lot is located farther than 800 metres from a Light Rail Transit (LRT) station as shown on Appendix E, and outside the Central Neighbourhood Area as shown on Appendix C – Central Neighbourhood Area the minimum lot area shall be 360 square metres or in accordance with Table 7-2, 7-3 or 7-4 as may be applicable for the principal dwelling type with which the additional dwelling unit (detached) is associated, whichever is greater;</p>	<p>4.12.3 Additional Dwelling (Detached)</p> <p>f) Where a lot is located farther than 800 metres from a Light Rail Transit (LRT) station as shown on Appendix E, and outside the Central Neighbourhood Area as shown on Appendix C – Central Neighbourhood Area the minimum lot area shall be 360 square metres or in accordance with Table 7-2, 7-3 or 7-4 as may be applicable for the principal dwelling type with which the additional dwelling unit (detached) is associated, whichever is greater;</p>	<p>O.Reg 462/24 legislates that municipalities cannot impose a minimum lot area for ADUs beyond the size required for the first unit. While the provincial regulations only apply to 3 dwelling units on a lot, planning staff recommended that this be extended to 4 units as the impacts are similar and the spirit of the change is to facilitate additional housing. The minimum lot width continues to apply and provides sufficient width for driveways.</p>
<p>4.12.4 Five to Ten Dwelling Units on a Lot</p> <p>Five (5) to ten (10) dwelling units on a lot without any non-residential use except permitted home occupation uses shall be permitted in accordance with the regulations specified by the zone category for the dwelling(s) and shall have:</p>	<p>4.12.4 Five to Ten Dwelling Units on a Lot</p> <p>ADD e)</p>	<p>Adding the requirement for unobstructed walkway to dwelling units in a multiple that is not subject to Site Plan Control. This ensures that emergency services and tenants can access all units and provides consistency.</p>

Existing Section/Regulation (By-law 2019-051)	Proposed Amendment	Rationale
<p>a) A minimum of 20% street line façade opening which includes at least one (1) pedestrian entrance to the principal building;</p> <p>b) A minimum 20% of the front yard landscaped, excluding surface walkways, patios, decks, playgrounds or pathways;</p> <p>c) A minimum driveway width of 2.6 metres;</p> <p>d) Despite section 4.12.4 c), where a driveway is immediately adjacent to any building or structure on a lot, the driveway including any curbing shall be a minimum 3.0 metres wide.</p>	<p>e) An unobstructed walkway that is a minimum 1.1 metres in width, shall be provided from a street or sidewalk to the principal entrance of each dwelling unit or to a common entrance providing access to each dwelling unit.</p>	
<p>4.14.4 Decks</p> <p>a) All decks shall meet the setback regulations required for the building in the applicable zone.</p> <p>b) Despite Subsection a) in a residential zone, unenclosed decks that do not exceed 0.6 metres in height above the ground, may be located within a required rear yard or interior side yard.</p> <p>c) Despite Subsection a) in a residential zone, entirely unenclosed decks that exceed 0.6 metres in height above the ground, may be located within a required rear yard provided that they are located a minimum of 4 metres from the rear lot line and meet the side yard setback regulations required for the dwelling in the applicable zone.</p> <p>d) Despite Subsection a) covered, unenclosed decks attached to the principal building may be located within a required rear yard provided that they are located a minimum of 4 metres from the rear lot line and meet the side yard setback regulations required for the dwelling in the applicable zone.</p> <p>4.14.7 Porches</p> <p>a) The minimum depth of a porch associated with a dwelling unit shall be 1.5 metres; or in the case of an existing porch with a depth of less than 1.5 metres, the minimum depth shall be the existing depth.</p> <p>b) Unenclosed porches associated with a dwelling unit may project into a front yard or exterior side yard provided that the porch is located a minimum of 3 metres from a street line and the floor of the porch does not exceed 1 metre in height above the ground. A cold room may be located beneath the porch.</p> <p>c) Despite Subsection b), a porch attached or unattached to the principal building of a structure designated under the Ontario Heritage Act may be located or reconstructed within a required front yard or side yard provided that the setback, gross floor area, dimensions, and height do not exceed what legally existed on or before March 5, 2012.</p>	<p>DELETE and REPLACE with new section 4.14.4</p> <p>4.14.4 Porches and Decks</p> <p>Porches and decks, whether or not covered, shall meet the regulations required for the <i>building</i> with which it is associated in the applicable <i>zone</i>.</p> <p>Despite the foregoing, in a <i>residential zone</i>:</p> <p>a) When located in a front yard or exterior side yard, an unenclosed porch or deck associated with an entrance to a dwelling unit, whether or not covered may project into a required front yard or exterior side yard provided that the porch or deck:</p> <ul style="list-style-type: none"> i. is located a minimum of 3 metres from a street line and the floor of the porch or deck does not exceed 1 metre in height above the ground. A cold room may be located beneath the porch or deck. ii. has a minimum depth of 1.5m; or in the case of an existing porch or deck with a depth of less than 1.5 metres, the minimum depth shall be the existing depth. iii. despite Subsection i) and ii), a porch or deck attached to the principal building of a lot or structure designated under the Ontario Heritage Act may be located or reconstructed within a required front yard or side yard provided that the setback, gross floor area, dimensions, and height do not exceed what legally existed on or before March 5, 2012. <p>b) When located within a rear yard:</p> <ul style="list-style-type: none"> i. an unenclosed and uncovered porch or deck that does not exceed 0.6 metres in height above the ground, may be located in the required <i>rear yard</i>. ii. an unenclosed and uncovered porch or deck that exceeds 0.6 metres in height above the ground, may be located in a required <i>rear yard</i> provided that it is located a minimum of 4 metres from the <i>rear lot line</i>, and meets the <i>interior side yard and exterior side yard setback</i> regulations required for the <i>dwelling</i> type with which it is associated. iii. A <i>roof structure</i> projecting from a building over an unenclosed porch or deck, shall be considered part of the building to which it is attached. A roof structure attached to the <i>principal building</i>, may project into a required <i>rear yard</i> provided that: <ul style="list-style-type: none"> a. it is located a minimum of 4 metres from the <i>rear lot line</i>, 	<p>Regulations are updated so that there is no differentiation between a porch or deck (consistent with 85-1). Regulations apply equally and depend on the yard that they project into.</p> <p>Within a front yard, regulations for porches and decks are consistent with existing porch regulations.</p> <p>Within a side yard or rear yard, regulations for porches and decks are consistent with existing deck regulations, however a maximum height of 5.5 metres for roof structures that project into the required rear yard and are attached to the building is added. This is consistent with the height permitted for a detached accessory structure.</p> <p>New regulations added to clarify that for a semi-detached dwelling or street-townhouse, a deck or porch may be setback 0 metres from the side lot line where there is a common wall.</p>

Existing Section/Regulation (By-law 2019-051)	Proposed Amendment	Rationale
	<ul style="list-style-type: none"> b. meets the <i>interior side yard</i> and <i>exterior side yard setback</i> regulations required for the <i>dwelling</i> in the applicable zone, and c. the roof structure over the porch or deck has a maximum height of 5.5 metres to the peak and 3.0 metres to the underside of any fascia measured from the ground immediately surrounding the roof structure for any portion which projects into the required rear yard. c) When located within an <i>interior side yard</i>, an unenclosed and uncovered porch or deck that does not exceed 0.6 metres in height above the ground, may be located within a required <i>interior side yard</i>. d) despite subsections a), b) and c) for a <i>semi-detached dwelling</i> or <i>street townhouse dwelling</i> a porch or deck which is attached to the principal dwelling, and any permitted covering or roof structure, may be <i>setback</i> 0 metres from an interior lot line on which there is a shared common wall. 	
<p>4.14.7 Porches</p>	<p>DELETED AND REPLACE with existing and new private patio regulations. "4.14.7 Patios</p> <ul style="list-style-type: none"> a) Any required private patio shall be a minimum of 11 square metres in size. b) An uncovered and unenclosed patio is permitted in any <i>yard</i>. c) A roof <i>structure</i> projecting from a <i>building</i> over an unenclosed patio, shall be considered part of the <i>building</i> to which it is attached. d) Despite Subsection c), in a <i>residential zone</i> a roof <i>structure</i> over an unenclosed patio, which is attached to the <i>principal building</i>, may be located within a required <i>rear yard</i> provided that it is <i>setback</i> a minimum of 4 metres from the <i>rear lot line</i>, meets the <i>interior side yard</i> and <i>exterior side yard setback</i> regulations required for the <i>dwelling</i> in the applicable zone, and the roof cover over the patio has a maximum height of 5.5 metres to the peak and 3.0 metres to the underside of any fascia." 	<p>Porch regulations (formerly in 4.14.7) combined with decks.</p> <p>Patio regulations shifted from 4.14.8.2 to 4.14.7</p> <p>Adding regulations to permit roof structures over patios consistent with those permitted for decks. (The attached accessory structure will contribute to the max 15% lot coverage for all accessory buildings and structures)</p>
<p>4.14.8.2 Private Patios Any required private patio shall be a minimum of 11 square metres in size.</p>	<p>DELETE section 4.14.8.2 and move to 4.14.7</p>	<p>Regulations moved to 4.14.7 to create a new and separate section for patios and roofs over patios.</p>
<p>4.14.10 Steps and Access Ramps</p> <ul style="list-style-type: none"> a) Steps and access ramps that do not exceed 0.6 metres above grade, at grade, or below grade, may be located within a side yard provided they are setback 0.5 metres from the closest property line. b) Steps and access ramps that exceed 0.6 metres above ground level shall be located a minimum of 3 metres from a street line and a minimum of 0.75 metres from an interior side lot line or rear lot line. Portions of steps and access ramps located above the ground floor storey shall be located a minimum of 1.2 metres from an interior side lot line or rear lot line. 	<p>DELETE AND REPLACE 4.14.10 Steps and Access Ramps "4.14.10 Steps and Access Ramps</p> <p>Steps and access ramps may be permitted in any required <i>yard</i>, provided the maximum area of steps and access ramps located in a <i>front yard</i> or <i>exterior side yard</i> shall not exceed 40 percent of the area of the <i>front yard</i> or <i>exterior side yard</i>.</p> <p>Despite the foregoing, in a <i>residential zone</i> the following shall apply:</p>	<p>Section has been reworded for clarity and ease of use.</p> <p>Adding a regulation to permit stairs to have 0 metre setback where there is a common wall.</p> <p>Adding regulations to permit roof structures over stairs and ramps in the side or rear yard consistent with covering regulations for decks and patios.</p>

Existing Section/Regulation (By-law 2019-051)	Proposed Amendment	Rationale
<p>c) The maximum area of steps and access ramps located in a front yard shall not exceed 40 percent of the area of the front yard.</p>	<p>a) within a <i>front yard</i> or <i>exterior side yard</i> steps and access ramps shall be located a minimum of 3.0 metres from a <i>street line</i> and 0.5 metres from an <i>interior side lot line</i> or <i>rear lot line</i>.</p> <p>i) despite subsection a) steps and access ramps that are located at ground level may be <i>setback</i> 0 metres to the <i>street line</i>.</p> <p>ii) Despite subsection a) portions of steps and access ramps that do not exceed 0.6 metres below ground level or 0.6 metres above ground level may be <i>setback</i> 1 metre from the <i>street line</i>.</p> <p>b) within an <i>interior side yard</i> steps and access ramps, whether located at ground level, above ground level or below ground level shall be located a minimum of 0.5 metres from the closest <i>lot line</i>.</p> <p>i) Despite subsection b) steps and access ramps that exceed 0.6 metres above ground level shall be located a minimum of 0.75 metres from the closest <i>lot line</i>, and portions of steps and access ramps that provide access above the <i>ground floor storey</i> shall be located a minimum of 1.2 metres from the closest <i>lot line</i>.</p> <p>c) Within a <i>rear yard</i> steps and access ramps that exceed 0.6 metres above ground level shall be located a minimum of 0.75 metres from the closest <i>lot line</i>, and portions of steps and access ramps that provide access above the <i>ground floor storey</i> shall be located a minimum of 1.2 metres from the closest <i>lot line</i>.</p> <p>d) Despite Subsections a) and b) steps and access ramps located in a <i>front yard</i> or <i>interior side yard</i> leading to a principal entrance of a <i>semi-detached dwelling</i> or a <i>street townhouse dwelling</i> may be set back 0 metres from the <i>interior lot line</i> on which there is a shared common wall.</p> <p>e) A <i>roof structure</i> projecting from a <i>building</i> over steps or access ramps shall be considered a part of the building to which it is attached.</p> <p>i) Despite Subsection e), a <i>roof structure</i> over steps or access ramps, attached to the <i>principal building</i>, may project into a required side yard provided that it is located no closer to the <i>side lot line</i> than the steps or access ramp, and the <i>roof structure</i> has a maximum <i>height</i> of 5.5 metres to the peak and 3.0 metres to the underside of any fascia measured from the ground immediately surrounding the roof structure.</p> <p>ii) Despite Subsection e), a <i>roof structure</i> over steps or access ramps, attached to the <i>principal building</i>, may project into a required <i>rear yard</i> provided that it is setback a minimum of 4 metres from the <i>rear lot line</i>, is located no closer to the <i>side lot line</i> than the steps or access ramp, meets the <i>interior side yard</i> and <i>exterior side yard setback</i> regulations required for the <i>dwelling</i> in the applicable zone, and the <i>roof structure</i> has a maximum <i>height</i> of 5.5 metres to the peak and 3.0 metres to the underside of any fascia measured from the ground immediately surrounding the roof structure for any portion which projects into the required <i>side yard</i> or <i>rear yard</i>."</p>	

Existing Section/Regulation (By-law 2019-051)	Proposed Amendment	Rationale
	<p>NEW 4.14.11 Window Wells Window wells may project into any required yard, provided that in a <i>residential zone</i> they are located a minimum of 0.5 metres to the closest lot line.</p>	<p>Adding a new subsection requiring a setback to window wells in residential zones. This aligns with requirements that stairs, porches, decks etc. must be setback 0.5 m from the closest lot line to avoid impacts to neighbouring properties, and to preserve space for drainage patterns.</p>
<p>4.15.7 Public Uses and Utilities Unless otherwise regulated herein, public uses and utilities may be permitted in any zone, provided that: a) Such use, building, or structure complies with the regulations, and parking and loading requirements of the applicable zone; and, b) Accessory outdoor storage may be permitted, and shall not be located within any yard abutting a residential zone.</p>	<p>AMEND 4.15.7 Public Uses and Utilities Unless otherwise regulated herein, public uses and utilities may be permitted in any zone, provided that: a) Such use, building, or structure complies with the regulations, and parking and loading requirements of the applicable zone.</p> <p>Despite the foregoing, for any public use containing <i>dwelling units</i> that qualify as affordable housing as defined in the Provincial Planning Statement: i) a dwelling or dwelling unit shall be permitted by the applicable zone; ii) despite the regulations of the applicable zone, residential uses may occupy 100% of gross floor area, 100% of the street line ground floor, and no minimum or maximum number of dwelling units shall apply. iii) minimum <i>parking space</i> requirements of Table 5-5 shall not apply.</p> <p>b) Accessory outdoor storage may be permitted, and shall not be located within any yard abutting a residential zone.</p>	<p>Public service uses can be provided in any zone and may include affordable housing when provided by the City, Region or Province. Subsection i) provides additional guidance to ensure that a dwelling or dwelling units are permitted in the parent zone to ensure that residential uses are compatible with uses of surrounding lands. Public service uses are generally required to meet the regulations of the zone. Subsection ii) provides flexibility for certain regulations that dictate how and where dwelling units are located within a building. Regulations governing built form such as setbacks, building height, overall Floor Space Ratio continue to apply. Subsection iii) exempts affordable housing from minimum parking requirements. Transportation services is satisfied that public service agencies will provide the appropriate amount of parking for the use, in consideration of location, access to transit etc. Minimum bicycle parking, barrier free parking, and parking for non-residential uses continue to apply.</p>
<p>Section 5 – Parking, Loading, and Stacking</p>		
<p>5.1 APPLICABILITY a) The provisions of Section 5 herein shall only apply at such time as there is: i) A change in use; and/or, ii) An increase in gross floor area on the lot; and/or, iii) A change in the amount, size and/or location of parking spaces, driveways, or drive aisles.</p> <p>b) Despite Subsection a) i), the provisions of Section 5 herein shall not apply to existing parking spaces, existing loading spaces, existing stacking spaces or existing stacking lanes on a lot where there is a change of use within an existing building or existing structure and: i) There is no increase in gross floor area on the lot; and, ii) The Class B bicycle parking provisions are complied with; and, iii) The number of existing parking spaces and stacking spaces that remain on the lot is equal to or greater than the minimum parking spaces and minimum stacking spaces required for the new use in accordance with Table 5-5 and Table 5-7.</p>	<p>5.1 APPLICABILITY a) The provisions of Section 5 herein shall only apply at such time as there is: i) A change in use or number of dwelling units; and/or, ii) An increase in gross floor area on the lot; and/or, iii) A change in the amount, size and/or location of existing parking spaces, existing driveways, or existing drive aisles.</p> <p>b) Despite Subsection a) i), the provisions of Section 5 herein shall not apply to existing parking spaces, existing driveways, existing garage projections, existing private garage width, existing loading spaces, existing stacking spaces or existing stacking lanes on a lot where there is a change of use or increase in the number of dwelling units within an existing building or existing structure and: i) There is no increase in gross floor area on the lot; and, ii) The Class B bicycle parking and Class C bicycle parking provisions are complied with; and, iii) The number of existing parking spaces and stacking spaces that remain on the lot is equal to or greater than the minimum parking spaces and minimum stacking spaces required for the new use or new number of dwelling units in accordance with Table 5-5, 5-6 and Table 5-7.</p>	<p>ADD MORE HERE Legalizes things that already exist and complied with previous by-law but may not fully comply with 2019-051</p>

Existing Section/Regulation (By-law 2019-051)	Proposed Amendment	Rationale																																
<p>5.4 DRIVEWAY AND GARAGE PROVISIONS FOR RESIDENTIAL USES</p> <p>f) Despite any provision in Table 5-2 and 5-3 a driveway associated with a single detached dwelling, semi-detached dwelling or street townhouse dwelling may not exceed 8.0 metres in width.</p>	<p>AMEND 5.4 DRIVEWAY AND GARAGE PROVISIONS FOR RESIDENTIAL USES</p> <p>f) Despite any provision in Table 5-2 and 5-3 a driveway associated with a single detached dwelling, semi-detached dwelling or street townhouse dwelling may not exceed 8.0 metres in width, except in a RES-1 zone where it may be as wide as an attached garage.</p>	<p>There are houses in RES-1 where the garage sizes legally exceed 8 metres in width (3-4 bays) due to wide lots and large homes. An 8 metre maximum driveway width does not allow access into all garage bays.</p>																																
<p>Table 5-2: Private Garage Width and Driveway Width Regulations by Use</p> <p><i>Table 5-2: Private Garage Width and Driveway Width Regulations by Use</i></p> <table border="1"> <thead> <tr> <th>Residential Use</th> <th>Maximum private garage width</th> <th>Maximum driveway width with an attached private garage</th> <th>Maximum driveway width without an attached private garage</th> </tr> </thead> <tbody> <tr> <td>Single Detached Dwelling <small>See Table 5.3 if lot is within Appendix C – Central Neighbourhoods</small></td> <td>65% of the width of the front façade closest to the street at grade</td> <td>50% of the lot width or a driveway may be as wide as the attached garage. The driveway may extend beyond the width of the attached garage to a maximum total width of 50% of the lot; and shall be located no closer than the required side yard setback of the dwelling. Per Section 5.4 f), no driveway shall exceed 8 metres in width.</td> <td>50% of the lot width. Per Section 5.4 f), no driveway shall exceed 8 metres in width.</td> </tr> <tr> <td>Semi-Detached Dwelling <small>See Table 5.3 if lot is within Appendix C – Central Neighbourhoods</small></td> <td>60% of the width of the front façade closest to the street at grade</td> <td>50% of the lot width or 5.2 metres, whichever is less, and a driveway may be as wide as the attached garage. The driveway may extend beyond the width of the attached garage to a maximum total width of 50% of the lot; and shall be located no closer than the required side yard setback of the dwelling which is not located along the common wall of the same dwelling. Per Section 5.4 f), no driveway shall exceed 8 metres in width.</td> <td>The lesser of, 50% of the lot width or 5.2 metres, whichever is less. Per Section 5.4 f), no driveway shall exceed 8 metres in width.</td> </tr> <tr> <td>Street Townhouse Dwelling <small>See Table 5.3 if lot is within Appendix C – Central Neighbourhoods</small></td> <td>60% of the width of the front façade closest to the street at grade</td> <td>60% of the lot width or 5.2 metres, whichever is less. The driveway may extend beyond the width of the attached garage to a maximum total width of 60% of the lot; Exterior end unit driveways shall be located no closer than the required side yard setback of the dwelling which is not located along the common wall of the same dwelling. Per Section 5.4 f), no driveway shall exceed 8 metres in width.</td> <td>60% of the lot width or 5.2 metres, whichever is less. Per Section 5.4 f), no driveway shall exceed 8 metres in width.</td> </tr> </tbody> </table>	Residential Use	Maximum private garage width	Maximum driveway width with an attached private garage	Maximum driveway width without an attached private garage	Single Detached Dwelling <small>See Table 5.3 if lot is within Appendix C – Central Neighbourhoods</small>	65% of the width of the front façade closest to the street at grade	50% of the lot width or a driveway may be as wide as the attached garage. The driveway may extend beyond the width of the attached garage to a maximum total width of 50% of the lot; and shall be located no closer than the required side yard setback of the dwelling. Per Section 5.4 f), no driveway shall exceed 8 metres in width.	50% of the lot width. Per Section 5.4 f), no driveway shall exceed 8 metres in width.	Semi-Detached Dwelling <small>See Table 5.3 if lot is within Appendix C – Central Neighbourhoods</small>	60% of the width of the front façade closest to the street at grade	50% of the lot width or 5.2 metres, whichever is less, and a driveway may be as wide as the attached garage. The driveway may extend beyond the width of the attached garage to a maximum total width of 50% of the lot; and shall be located no closer than the required side yard setback of the dwelling which is not located along the common wall of the same dwelling. Per Section 5.4 f), no driveway shall exceed 8 metres in width.	The lesser of, 50% of the lot width or 5.2 metres, whichever is less. Per Section 5.4 f), no driveway shall exceed 8 metres in width.	Street Townhouse Dwelling <small>See Table 5.3 if lot is within Appendix C – Central Neighbourhoods</small>	60% of the width of the front façade closest to the street at grade	60% of the lot width or 5.2 metres, whichever is less. 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Residential Use	Maximum private garage width	Maximum driveway width with an attached private garage	Maximum driveway width without an attached private garage	Single Detached Dwelling <small>See Table 5.3 if lot is within Appendix C – Central Neighbourhoods</small>	65% of the width of the front façade closest to the street at grade	50% of the lot width or a driveway may be as wide as the attached garage. The driveway may extend beyond the width of the attached garage to a maximum total width of 50% of the lot; and shall be located no closer than the required side yard setback of the dwelling. Per Section 5.4 f), no driveway shall exceed 8 metres in width.	50% of the lot width. Per Section 5.4 f), no driveway shall exceed 8 metres in width.	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The driveway may extend beyond the width of the attached garage to a maximum total width of 60% of the lot; Exterior end unit driveways shall be located no closer than the required side yard setback of the dwelling which is not located along the common wall of the same dwelling. Per Section 5.4 f), no driveway shall exceed 8 metres in width.	60% of the lot width or 5.2 metres, whichever is less. Per Section 5.4 f), no driveway shall exceed 8 metres in width.	<p>Carrying forward regulations from By-law 85-1 which permit a storage alcove to increase the interior garage width, behind the front façade. This is useful to increase storage space without impacting the façade, streetscape, driveway width etc.</p>
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Existing Section/Regulation (By-law 2019-051)

Table 5-3: Private Garage Width and Driveway Width Regulations by Use for lands identified on Appendix C – Central Neighbourhoods

Residential Use	Maximum private garage width	Maximum driveway width with an attached garage	Maximum driveway width without an attached garage
Single Detached Dwelling <small>On a lot within Appendix C – Central Neighbourhoods. For all other areas, see Table 5-2.</small>	50% of the width of the front façade closest to the street at grade	40% of the lot width or a driveway may be as wide as the attached garage The driveway may extend beyond the width of the attached garage to a maximum total width of 40% of the lot; and shall be located no closer than the required side yard setback of the dwelling which is not located along the common wall of the same dwelling. Per Section 5.4 f), no driveway shall exceed 8 metres in width.	40% of the lot width. Per Section 5.4 f), no driveway shall exceed 8 metres in width.
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Street Townhouse Dwelling <small>On a lot within Appendix C – Central Neighbourhoods. For all other areas, see Table 5-2.</small>	60% of the width of the front façade closest to the street at grade	60% of the lot width or 5.2 metres, whichever is less, and a driveway may be as wide as the attached garage. The driveway may extend beyond the width of the attached garage to a maximum total width of 60% of the lot; Exterior end unit driveways shall be located no closer than the required side yard setback of the dwelling. Per Section 5.4 f), no driveway shall exceed 8 metres in width.	60% of the lot width or 5.2 metres, whichever is less. Per Section 5.4 f), no driveway shall exceed 8 metres in width.

Proposed Amendment

ADD (1) to all rows in column 2 and
ADD (2) to column 2 for Semi-detached dwelling

Table 5-3: Private Garage Width and Driveway Width Regulations by Use for lands identified on Appendix C – Central Neighbourhoods

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- (1) Notwithstanding the maximum private garage width, a storage alcove may be incorporated into an attached garage and may extend beyond the maximum private garage width provided that:
 - a) the storage alcove is stepped back a minimum of 1.5 metres from the street line façade of the garage nearest to the street;
 - b) the entire width of the garage including both the vehicular parking area and the storage alcove shall not exceed 80% of the width of the street line façade at the ground level (measured from the centreline of the interior garage wall to the outside of the exterior wall).
- (2) despite the maximum private garage width, where a semi-detached dwelling unit is located on a lot having a width between 7.5 metres and 8.0 metres, the maximum private garage width may be increased to a maximum of 60% of the front façade closest to the street at the ground level, and only as much is strictly necessary in order to provide an interior garage width of 3.0 metres.

Carrying forward regulations from By-law 85-1 which permit a storage alcove to increase the interior garage width, behind the front façade. This is useful to increase storage space without impacting the façade, streetscape, driveway width etc.

Permitting semi-detached dwellings on lots less than 8.0 metres wide to measure the width from the interior of the garage. Given the required thickness of walls, it is not possible to provide the minimum parking stall size using an external measurement for this lot size.

Section 7 – Residential Zones (RES)

Existing Section/Regulation (By-law 2019-051)	Proposed Amendment	Rationale																																																																																																																																																																																
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(2) The minimum lot width shall be 30.0 metres on lots without full municipal services. (3) For lands identified in Appendix D – Established Neighbourhoods Area, the minimum and Maximum front yard shall be in accordance with Section 7.6. (4) A combined total of 55 percent for all buildings and structures on the lot. Accessory buildings or structures, whether attached or detached, and additional dwellings (detached) shall not exceed 15 percent. (5) The regulations within Table 7-2 shall not apply to an existing single detached dwelling on an existing lot with or without one existing additional dwelling unit (attached). (6) For lands identified in Appendix C – Central Neighborhoods, the maximum building height shall be in accordance with Section 7.5.</p>	Regulation	RES-1 (5)	RES-2 (5)	RES-3 (5)	RES-4 (5)	RES-5 (5)	RES-6	RES-7	Minimum Lot Area	929m ² (1)	411m ²	288m ²	235m ²	235m ²			Minimum Lot Width	24.0m(2)	13.7m	10.5m	9.0m	9.0m			Minimum Corner Lot Width	24.0m(2)	15.0m	13.8m	12.8m	12.8m			Minimum Front Yard or Exterior Side Yard Setback	6.0m (3)	4.5m(3)	4.5m(3)	4.5m(3)	4.5m(3)			Maximum Front Yard Setback	(3)	(3)	(3)	(3)	(3)			Minimum Interior Side Yard Setback	3.0m	1.2m	1.2m	1.2m	1.2m			Minimum Rear Yard Setback	7.5m	7.5m	7.5m	7.5m	7.5m			Maximum Lot Coverage	55%(4)	55%(4)	55%(4)	55%(4)	55%(4)			Maximum Building Height	11.0m(6)	11.0m(6)	11.0m(6)	11.0m(6)	11.0m(6)			Maximum number of storeys	3	3	3	3	3			<p>AMEND additional regulation (5)</p> <p>ADD new additional regulation (7) to Minimum Front Yard or Exterior Side Yard Setback</p> <p align="center">Table 7-2: For Single Detached Dwellings</p> <table border="1"> <thead> <tr> <th>Regulation</th> <th>RES-1 (5)</th> <th>RES-2 (5)</th> <th>RES-3 (5)</th> <th>RES-4 (5)</th> <th>RES-5 (5)</th> <th>RES-6</th> <th>RES-7</th> </tr> </thead> <tbody> <tr> <td>Minimum Lot Area</td> <td>929m²(1)</td> <td>411m²</td> <td>288m²</td> <td>235m²</td> <td>235m²</td> <td></td> <td></td> </tr> <tr> <td>Minimum Lot Width</td> <td>24.0m(2)</td> <td>13.7m</td> <td>10.5m</td> <td>9.0m</td> <td>9.0m</td> <td></td> <td></td> </tr> <tr> <td>Minimum Corner Lot Width</td> <td>24.0m(2)</td> <td>15.0m</td> <td>13.8m</td> <td>12.8m</td> <td>12.8m</td> <td></td> <td></td> </tr> <tr> <td>Minimum Front Yard or Exterior Side Yard Setback</td> <td>6.0m (3)</td> <td>4.5m(3)</td> <td>4.5m(3)</td> <td>4.5m(3)</td> <td>4.5m(3)</td> <td></td> <td></td> </tr> <tr> <td>Maximum Front Yard Setback</td> <td>(3)</td> <td>(3)</td> <td>(3)</td> <td>(3)</td> <td>(3)</td> <td></td> <td></td> </tr> <tr> <td>Minimum Interior Side Yard Setback</td> <td>3.0m</td> <td>1.2m</td> <td>1.2m</td> <td>1.2m</td> <td>1.2m</td> <td></td> <td></td> </tr> <tr> <td>Minimum Rear Yard Setback</td> <td>7.5m</td> <td>7.5m</td> <td>7.5m</td> <td>7.5m</td> <td>7.5m</td> <td></td> <td></td> </tr> <tr> <td>Maximum Lot Coverage</td> <td>55%(4)</td> <td>55%(4)</td> <td>55%(4)</td> <td>55%(4)</td> <td>55%(4)</td> <td></td> <td></td> </tr> <tr> <td>Maximum Building Height</td> <td>11.0m(6)</td> <td>11.0m(6)</td> <td>11.0m(6)</td> <td>11.0m(6)</td> <td>11.0m(6)</td> <td></td> <td></td> </tr> <tr> <td>Maximum number of storeys</td> <td>3</td> <td>3</td> <td>3</td> <td>3</td> <td>3</td> <td></td> <td></td> </tr> </tbody> </table> <p>(1) The minimum lot area shall be 0.4 hectares on lots without full municipal services. 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(5) The regulations within Table 7-2 shall not apply to an <i>existing single detached dwelling on an existing lot</i> with or without one <i>additional dwelling unit (attached)</i>, or where one <i>additional dwelling unit (attached)</i> is added to a <i>single detached dwelling</i> without any <i>existing additional dwelling units (attached) or additional dwelling units (detached)</i>, where there is no increase to <i>existing gross floor area</i>".</p> <p>ADD new additional regulation (7) to Minimum Front Yard or Exterior Side Yard Setback: (7) despite the minimum front yard or exterior side yard setback, the vehicular entrance to any private garage shall be located 6 metres from the street line.</p>	Regulation	RES-1 (5)	RES-2 (5)	RES-3 (5)	RES-4 (5)	RES-5 (5)	RES-6	RES-7	Minimum Lot Area	929m ² (1)	411m ²	288m ²	235m ²	235m ²			Minimum Lot Width	24.0m(2)	13.7m	10.5m	9.0m	9.0m			Minimum Corner Lot Width	24.0m(2)	15.0m	13.8m	12.8m	12.8m			Minimum Front Yard or Exterior Side Yard Setback	6.0m (3)	4.5m(3)	4.5m(3)	4.5m(3)	4.5m(3)			Maximum Front Yard Setback	(3)	(3)	(3)	(3)	(3)			Minimum Interior Side Yard Setback	3.0m	1.2m	1.2m	1.2m	1.2m			Minimum Rear Yard Setback	7.5m	7.5m	7.5m	7.5m	7.5m			Maximum Lot Coverage	55%(4)	55%(4)	55%(4)	55%(4)	55%(4)			Maximum Building Height	11.0m(6)	11.0m(6)	11.0m(6)	11.0m(6)	11.0m(6)			Maximum number of storeys	3	3	3	3	3			<p>Amend Additional Regulation (5) – clarify that this also allows a single to be duplexed if the current building (single) doesn't comply with regulations. Any addition must comply with setback and height regulations.</p> <p>Add Additional Regulation (7) to require that a garage is setback 6.0 metres from a street. This ensures there is sufficient space between the garage and the property line to park a vehicle, and to ensure that a vehicle exiting the garage and has view of the sidewalk before crossing it. This is consistent with the requirement that parking within a garage must be setback 6.0 m from a streetline.</p>
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Minimum Front Yard or Exterior Side Yard Setback	6.0m (3)	4.5m(3)	4.5m(3)	4.5m(3)	4.5m(3)																																																																																																																																																																													
Maximum Front Yard Setback	(3)	(3)	(3)	(3)	(3)																																																																																																																																																																													
Minimum Interior Side Yard Setback	3.0m	1.2m	1.2m	1.2m	1.2m																																																																																																																																																																													
Minimum Rear Yard Setback	7.5m	7.5m	7.5m	7.5m	7.5m																																																																																																																																																																													
Maximum Lot Coverage	55%(4)	55%(4)	55%(4)	55%(4)	55%(4)																																																																																																																																																																													
Maximum Building Height	11.0m(6)	11.0m(6)	11.0m(6)	11.0m(6)	11.0m(6)																																																																																																																																																																													
Maximum number of storeys	3	3	3	3	3																																																																																																																																																																													
Regulation	RES-1 (5)	RES-2 (5)	RES-3 (5)	RES-4 (5)	RES-5 (5)	RES-6	RES-7																																																																																																																																																																											
Minimum Lot Area	929m ² (1)	411m ²	288m ²	235m ²	235m ²																																																																																																																																																																													
Minimum Lot Width	24.0m(2)	13.7m	10.5m	9.0m	9.0m																																																																																																																																																																													
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Maximum number of storeys	3	3	3	3	3																																																																																																																																																																													
<p>Table 7-3: for Semi-Detached Dwelling Unit</p>	<p>AMEND additional regulation (3)</p> <p>ADD new additional regulation (5) to Minimum Front Yard or Exterior Side Yard Setback</p>	<p>Amend additional Regulation (3) – clarify that this also allows a semi to be duplexed if the current building doesn't comply with regulations. Any addition must comply with setback and height regulations.</p> <p>Add Additional Regulation (5) to require that a garage entrance is setback 6.0 metres from a street. This ensures there is sufficient space between the garage and the property line to park a vehicle, and to ensure the vehicle exiting the garage and has full visibility of the</p>																																																																																																																																																																																

Existing Section/Regulation (By-law 2019-051)								Proposed Amendment								Rationale	
Table 7-3: For Semi-Detached Dwelling Unit								Table 7-3: For Semi-Detached Dwelling Unit								sidewalk before crossing it. This is consistent with the requirement that parking within a garage must be setback 6.0 m from a street line.	
Regulation	RES-1	RES-2	RES-3 (3)	RES-4 (3)	RES-5 (3)	RES-6	RES-7	Regulation	RES-1	RES-2	RES-3 (3)	RES-4 (3)	RES-5 (3)	RES-6	RES-7		
Minimum Lot Area			260m ²	210m ²	210m ²			Minimum Lot Area			260m ²	210m ²	210m ²			<p>Additional Regulations for Semi-Detached Dwelling Unit Table 7-3</p> <p>Additional Regulations for Semi-Detached Dwelling Unit Table 7-3</p> <p>(1) For lands identified in Appendix D – Established Neighbourhoods Area, the minimum and maximum front yard shall be in accordance with Section 7.6.</p> <p>(2) A combined total of 55 percent for all buildings and structures on the lot. Accessory buildings or structures, whether attached or detached, and additional dwellings (detached) shall not exceed 15 percent.</p> <p>(3) The regulations within Table 7-3 shall not apply to an existing semi-detached dwelling on an existing lot with or without one existing additional dwelling unit (attached).</p> <p>(4) For lands identified in Appendix C – Central Neighborhoods, the maximum building height shall be in accordance with Section 7.5.</p> <p>ADD new additional regulation (5) to Minimum Front Yard or Exterior Side Yard Setback: (5) despite the minimum front yard or exterior side yard setback, the vehicular entrance to any private garage shall be located 6 metres from the street line</p>	
Minimum Lot Width			9.3 m	7.5m	7.5m			Minimum Lot Width			9.3 m	7.5m	7.5m				
Minimum Corner Lot Width			12.0m	12.0m	12.0m			Minimum Corner Lot Width			12.0m	12.0m	12.0m				
Minimum Front Yard or Exterior Yard Setback			4.5m (1)	4.5m(1)	4.5m(1)			Minimum Front Yard or Exterior Yard Setback			4.5m (1)	4.5m(1)	4.5m(1)				
Maximum Front Yard Setback			(1)	(1)	(1)			Maximum Front Yard Setback			(1)	(1)	(1)				
Minimum Interior Side Yard Setback			1.2m	1.2m	1.2m			Minimum Interior Side Yard Setback			1.2m	1.2m	1.2m				
Minimum Rear Yard Setback			7.5m	7.5m	7.5m			Minimum Rear Yard Setback			7.5m	7.5m	7.5m				
Maximum Lot Coverage			55%(2)	55%(2)	55%(2)			Maximum Lot Coverage			55%(2)	55%(2)	55%(2)				
Maximum Building Height			11.0m(4)	11.0m(4)	11.0m(4)			Maximum Building Height			11.0m(4)	11.0m(4)	11.0m(4)				
Maximum number of storeys			3	3	3			Maximum number of storeys			3	3	3				
Additional Regulations for Semi-Detached Dwelling Unit Table 7-3								Additional Regulations for Semi-Detached Dwelling Unit Table 7-3									
Additional Regulations for Semi-Detached Dwelling Unit Table 7-3								Additional Regulations for Semi-Detached Dwelling Unit Table 7-3									
(1) For lands identified in Appendix D – Established Neighbourhoods Area, the minimum and maximum front yard shall be in accordance with Section 7.6.								(1) For lands identified in Appendix D – Established Neighbourhoods Area, the minimum and maximum front yard shall be in accordance with Section 7.6.									
(2) A combined total of 55 percent for all buildings and structures on the lot. Accessory buildings or structures, whether attached or detached, and additional dwellings (detached) shall not exceed 15 percent.								(2) A combined total of 55 percent for all buildings and structures on the lot. Accessory buildings or structures, whether attached or detached, and additional dwellings (detached) shall not exceed 15 percent.									
(3) The regulations within Table 7-3 shall not apply to an existing semi-detached dwelling on an existing lot with or without one existing additional dwelling unit (attached).								(3) The regulations within Table 7-3 shall not apply to an existing semi-detached dwelling on an existing lot with or without one existing additional dwelling unit (attached), or where one additional dwelling unit (attached) is added to a semi-detached dwelling without any existing additional dwelling unit (attached) or additional dwelling units (detached), where there is no increase to existing gross floor area.									
(4) For lands identified in Appendix C – Central Neighborhoods, the maximum building height shall be in accordance with Section 7.5.								(4) For lands identified in Appendix C – Central Neighborhoods, the maximum building height shall be in accordance with Section 7.5.									
ADD new additional regulation (5) to Minimum Front Yard or Exterior Side Yard Setback: (5) despite the minimum front yard or exterior side yard setback, the vehicular entrance to any private garage shall be located 6 metres from the street line																	
Table 7-4: for Street Townhouse Dwelling Units								AMEND additional regulation (4)								<p>Amend Additional Regulation (3) – clarify that this also allows a street townhouse to be duplexed if the current building doesn't comply with regulations. Any addition must comply with setback and height regulations.</p> <p>Add Additional Regulation (6) to require that a garage is setback 6.0 metres from a street. This ensures there is sufficient space between the garage and the property line to park a vehicle, and to ensure that a vehicle exiting the garage and has view of the sidewalk before crossing it. This is consistent with the requirement that parking within a garage must be setback 6.0 m from a streetline.</p>	
								ADD new additional regulation (6) to Minimum Front Yard or Exterior Side Yard Setback									
								ADD new additional regulation (7) to Minimum Lot Width (Internal Unit) and Minimum Lot Width (External Unit) in RES-4 and RES-5 zone									
								ADD new additional regulation (8) to Minimum Interior Side Yard setback									

Existing Section/Regulation (By-law 2019-051)

Table 7-4: For Street Townhouse Dwelling Units

Regulation	RES-1	RES-2	RES-3	RES-4 (4)	RES-5 (4)	RES-6	RES-7
Minimum Lot Area				148m ²	135m ²		
Minimum Lot Width (Internal Unit)				6.0m	5.5m		
Minimum Lot Width (External Unit)				10.0m	9.5m		
Minimum Corner Lot Width				12.0m	11.5m		
Minimum Front Yard or Exterior Yard Setback				4.5m(1)	4.5m(1)		
Maximum Front Yard Setback				(1)	(1)		
Minimum Interior Side Yard Setback				2.5m	2.5m		
Minimum Rear Yard Setback				7.5m	7.5m		
Rear Yard Access				(2)	(2)		
Maximum Lot Coverage				55%(3)	55%(3)		
Maximum Building Height				11.0m(5)	11.0m(5)		
Maximum number of storeys				3	3		

Additional Regulations for Street Townhouse Dwelling Units Table 7-4

Additional Regulations for Street Townhouse Dwelling Units Table 7-4

- (1) For lands identified in Appendix D – Established Neighbourhoods Area, the minimum and maximum front yard shall be in accordance with Section 7.6.
- (2) Each dwelling unit shall have an unobstructed access at grade or ground floor level, having a minimum width of 0.9 metres, from the front yard to the rear yard of the lot either by:
 - a) direct access on the lot without passing through any portion of the dwelling unit; or,
 - b) direct access through the dwelling unit without passing through a living or family room, dining room, kitchen, bathroom, bedroom, or recreation room or any hallway that is not separated by a door to any such room; or,
 - c) access over adjacent lands which, if the lands are not owned by the City or the Region, is secured by a registered easement.
- (3) A combined total of 55 percent for all buildings and structures on the lot. Accessory buildings or structures, whether attached or detached, and additional dwellings (detached) shall not exceed 15 percent.
- (4) The regulations within Table 7-4 shall not apply to an existing street townhouse dwelling on an existing lot with or without one existing additional dwelling unit (attached).
- (5) For lands identified in Appendix C – Central Neighborhoods, the maximum building height shall be in accordance with Section 7.5.

7.6 LANDS LOCATED IN APPENDIX D – ESTABLISHED NEIGHBOURHOODS AREA

- a) For permitted uses subject to this regulation, the minimum front yard shall be the established front yard minus one metre. In all other cases, the minimum front yard shall be in accordance with the regulations table for the permitted use. Despite the foregoing, no part of any building used to accommodate off street parking shall be located closer than 6 metres to the street line; and,
- b) The maximum front yard shall be the established front yard plus one metre. In all other cases there is no maximum front yard.

Proposed Amendment

Table 7-4: For Street Townhouse Dwelling Units

Regulation	RES-1	RES-2	RES-3	RES-4 (4)	RES-5 (4)	RES-6	RES-7
Minimum Lot Area				148m ²	135m ²		
Minimum Lot Width (Internal Unit)				6.0m	5.5m		
Minimum Lot Width (External Unit)				10.0m	9.5m		
Minimum Corner Lot Width				12.0m	11.5m		
Minimum Front Yard or Exterior Yard Setback				4.5m(1)	4.5m(1)		
Maximum Front Yard Setback				(1)	(1)		
Minimum Interior Side Yard Setback				2.5m	2.5m		
Minimum Rear Yard Setback				7.5m	7.5m		
Rear Yard Access				(2)	(2)		
Maximum Lot Coverage				55%(3)	55%(3)		
Maximum Building Height				11.0m(5)	11.0m(5)		
Maximum number of storeys				3	3		

(4) The regulations within Table 7-4 shall not apply to an existing street townhouse dwelling on an existing lot with or without one additional dwelling unit (attached), or where one additional dwelling unit (attached) is added to a street townhouse dwelling unit without any existing additional dwelling unit (attached) or additional dwelling units (detached), where there is no increase to existing gross floor area.

ADD new additional regulation (6) to Minimum Front Yard or Exterior Side Yard Setback: (6) despite the minimum front yard or exterior side yard setback, the vehicular entrance to any building used to accommodate off-street parking shall be located 6 metres from the street line

ADD new additional regulation (7) to Minimum Lot Width (Internal Unit) in RES-4 zone: (7) despite the minimum lot width regulation, the minimum lot width for a street townhouse dwelling unit located on a lot or block which was created by a Plan of Subdivision and which received Draft Plan approval prior to the effective date of this by-law shall be 5.5 metres.

ADD new additional regulation (8) to Minimum Interior Side Yard setback: (8) Despite the minimum interior side yard setback, for any portion of a wall located on an interior side yard having a common wall, but not forming part of a common wall, the minimum interior side yard setback shall be 1.2 metres.

ADD new subsection c) to 7.6 LANDS LOCATED IN APPENDIX D – ESTABLISHED NEIGHBOURHOODS AREA

c) Despite subsection a) and b) where there are no changes to an existing front yard setback the existing front yard is the established front yard.

Rationale

Add new additional regulation (7) to legalize minimum lot width of 5.5 metres for towns created in accordance with zoning bylaw 85-1. This allows lot to be considered legal rather than legal non-conforming, which allows additions and alterations without additional approval processes.

Add new additional regulation (8) to Minimum Interior Side Yard setback to require a 1.2 metre setback for any portion of a wall located on an interior side yard having a common wall, but not forming part of a common wall.

Add clarification that where there are no changes to an existing front yard setback, the front yard that exists is considered to be the established front yard. This supports proposals which retain an existing building having an existing setback that is not changing as a result of the proposal to be maintained without further approval processes such as minor variances.

Existing Section/Regulation (By-law 2019-051)	Proposed Amendment	Rationale																																																																																																																																																
<p>Section 8 – Mixed Use (MIX) Zones Table 8-1: Permitted Uses within the Mixed Use Zones</p> <p style="text-align: center;"><u>Table 8-1: Permitted Uses within the Mixed Use Zones</u></p> <table border="1" data-bbox="149 338 901 808"> <thead> <tr> <th>Use</th> <th>MIX-1</th> <th>MIX-2</th> <th>MIX-3</th> </tr> </thead> <tbody> <tr><td>Adult Education School</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Artisan's Establishment</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Brewpub</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Cluster Townhouse Dwelling</td><td>✓(1)</td><td>✓</td><td></td></tr> <tr><td>Commercial Entertainment</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Commercial School</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Community Facility</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Computer, Electronic, Data Processing, or Server Establishment</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Craftsperson Shop</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Cultural Facility</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Day Care Facility</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Dwelling Unit (2)</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Financial Establishment</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Fitness Centre</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Health Clinic</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Hospice</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Hotel</td><td>✓</td><td>✓</td><td>✓</td></tr> </tbody> </table>	Use	MIX-1	MIX-2	MIX-3	Adult Education School	✓	✓	✓	Artisan's Establishment	✓	✓	✓	Brewpub	✓	✓	✓	Cluster Townhouse Dwelling	✓(1)	✓		Commercial Entertainment	✓	✓	✓	Commercial School	✓	✓	✓	Community Facility	✓	✓	✓	Computer, Electronic, Data Processing, or Server Establishment	✓	✓	✓	Craftsperson Shop	✓	✓	✓	Cultural Facility	✓	✓	✓	Day Care Facility	✓	✓	✓	Dwelling Unit (2)	✓	✓	✓	Financial Establishment	✓	✓	✓	Fitness Centre	✓	✓	✓	Health Clinic	✓	✓	✓	Hospice	✓	✓	✓	Hotel	✓	✓	✓	<p>Section 8 – Mixed Use (MIX) Zones Table 8-1: Permitted Uses within the Mixed Use Zones ADD Home Occupation as a permitted uses ADD new additional regulation (9) to Home Occupation use</p> <p style="text-align: center;"><u>Table 8-1: Permitted Uses within the Mixed Use Zones</u></p> <table border="1" data-bbox="1255 445 2007 915"> <thead> <tr> <th>Use</th> <th>MIX-1</th> <th>MIX-2</th> <th>MIX-3</th> </tr> </thead> <tbody> <tr><td>Adult Education School</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Artisan's Establishment</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Brewpub</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Cluster Townhouse Dwelling</td><td>✓(1)</td><td>✓</td><td></td></tr> <tr><td>Commercial Entertainment</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Commercial School</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Community Facility</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Computer, Electronic, Data Processing, or Server Establishment</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Craftsperson Shop</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Cultural Facility</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Day Care Facility</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Dwelling Unit (2)</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Financial Establishment</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Fitness Centre</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Health Clinic</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Hospice</td><td>✓</td><td>✓</td><td>✓</td></tr> <tr><td>Hotel</td><td>✓</td><td>✓</td><td>✓</td></tr> </tbody> </table> <p>→ (9) Shall be permitted in accordance with 4.7.</p>	Use	MIX-1	MIX-2	MIX-3	Adult Education School	✓	✓	✓	Artisan's Establishment	✓	✓	✓	Brewpub	✓	✓	✓	Cluster Townhouse Dwelling	✓(1)	✓		Commercial Entertainment	✓	✓	✓	Commercial School	✓	✓	✓	Community Facility	✓	✓	✓	Computer, Electronic, Data Processing, or Server Establishment	✓	✓	✓	Craftsperson Shop	✓	✓	✓	Cultural Facility	✓	✓	✓	Day Care Facility	✓	✓	✓	Dwelling Unit (2)	✓	✓	✓	Financial Establishment	✓	✓	✓	Fitness Centre	✓	✓	✓	Health Clinic	✓	✓	✓	Hospice	✓	✓	✓	Hotel	✓	✓	✓	<p>Add <i>Home Occupation</i> as a permitted use in all MIX zones subject to additional regulation (9). Not currently permitted in a dwelling unit in a mixed-use building, however these are apartment units and should be treated the same as apartments in multiple dwellings.</p>
Use	MIX-1	MIX-2	MIX-3																																																																																																																																															
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<p>SECTION 18- TRANSITION PROVISIONS</p>	<p>ADD subsection 18.6 18.6 TRANSITION SUNSET CLAUSE – RES-3 & RES-4 ZONED LOTS Despite Section 18.3, Sections 18.1, 18.2 a), b), and d) and 18.6, as they apply to lots zoned RES-3 and RES-4, are automatically repealed on the seventh anniversary of the <i>effective date</i> of this By-law, and the provisions of Section 34(9) of the Planning Act shall thereafter apply in respect of any <i>buildings, structures, or uses</i> established or erected pursuant to any such complete application.</p>	<p>This will extend the date for issuance of building permits where subdivisions were granted draft approval under zoning bylaw 85-1 (extending the deadline beyond March 2025 to March 2029). Due to market conditions and construction timelines, there are lots in approved and registered plans of subdivision which were approved under By-law 85-1, which have not yet been issued building permits. The lots, building designs and associated approvals comply with By-law 85-1. The change will allow building permits to be issued in accordance with the regulations in place at the time approvals were granted.</p>																																																																																																																																																

Existing Section/Regulation (By-law 85-1)	Proposed Amendment	Rationale
<p>"Building Height" means the vertical distance between the highest finished grade level at the perimeter of the building and the uppermost point of the building. For all uses except single detached and duplex dwellings, at no point shall the vertical distance between the lowest finished grade and the uppermost point of the building exceed 110% of the maximum building height in the applicable zone. Provided, however, where this by-law requires building height to be calculated to determine a minimum rear yard or a minimum side yard requirement, building height shall mean the vertical distance between the lowest finished grade elevation along the lot line related to such yard at that point closest to the building and the horizontal extension of the uppermost point of the building. Antennae, chimneys, spires, cupolas, elevator penthouses, or other similar features shall be disregarded in calculating building height. In the case of a building on a lot within more than one zone, building heights shall be measured to the uppermost point of that portion of the building within each zone.</p>	<p>AMEND "Building Height" means the vertical distance between the highest finished grade level at the perimeter of the building and the uppermost point of the building. For all uses except single detached and duplex dwellings, at no point shall the vertical distance between the lowest finished grade and the uppermost point of the building exceed 110% of the maximum building height in the applicable zone. Provided, however, where this by-law requires building height to be calculated to determine a minimum rear yard or a minimum side yard requirement, building height shall mean the vertical distance between the lowest finished grade elevation along the lot line related to such yard at that point closest to the building and the horizontal extension of the uppermost point of the building. Antennae, chimneys, spires, cupolas, elevator penthouses, or other similar features shall be disregarded in calculating building height. In the case of a building on a lot within more than one zone, building heights shall be measured to the uppermost point of that portion of the building within each zone.</p> <p>Despite the foregoing, for an additional dwelling (detached), the height shall be measured in accordance with s. 5.22.1 f) and 5.22.1 g) and at no point shall the vertical distance between the lowest elevation of the finished ground immediately surrounding the perimeter of the building and the point to which height is measured as described by the regulations exceed 110% of the maximum permitted building height.</p>	<p>Revising the definition to be consistent with changes to By-law 2019-051. Adding in detached ADUs to the definition of building height. Detached ADUs are subject to the maximum 110% height from lowest finished grade. Updated regulations acknowledge that the height of a detached ADU is measured differently than other building types.</p>
<p>5.6A Permitted Yard Projections for Dwellings</p>	<p>5.6A Permitted Yard Projections for Dwellings ADD subsection 5.6A .6 .6 Window Wells Window wells may project into any required yard, provided that are located a minimum 0.5 metres to the closest lot line.</p>	
<p>5.8 PUBLIC SERVICES Notwithstanding anything else in this By-law, the City or any of its local boards as defined in The Municipal Affairs Act, The Regional Municipality of Waterloo, Kitchener-Wilmot Hydro Inc., communications or transportation systems owned or operated by or for the citizens and any agency of the Federal or Provincial Government, including Hydro One, may, for the purposes of the public service, use any land or erect or use any building in any zone subject to the use or building being in compliance with the most restrictive regulations contained in such zone and the parking requirements of Section 6.1 for such use and subject to there being no outdoor storage of goods, materials or equipment in any yard abutting a Residential Zone. Any buildings erected or used in a Residential Zone under the provisions of this Section shall be designed so as not to intrude into the residential character of the area. This exemption for use in any zone, however, shall not apply to any land or building used by any transportation, communications, telephone or electrical utility company for executive or administrative offices, or retail purposes, or any land or building used by any local school board for secondary school purposes.</p>	<p>AMEND 5.8 PUBLIC SERVICES Notwithstanding anything else in this By-law, the City or any of its local boards as defined in The Municipal Affairs Act, The Regional Municipality of Waterloo, Kitchener-Wilmot Hydro Inc. Enova Power Corp., communications or transportation systems owned or operated by or for the citizens and any agency of the Federal or Provincial Government, including Hydro One, or an organization on behalf of or in partnership with the aforementioned a public service provider, may, for the purposes of the public service, use any land or erect or use any building in any zone subject to the use or building being in compliance with the most restrictive regulations contained in such zone and the parking requirements of Section 6.1 for such use and subject to there being no outdoor storage of goods, materials or equipment in any yard abutting a Residential Zone. Any buildings erected or used in a Residential Zone under the provisions of this Section shall be designed so as not to intrude into the residential character of the area. For any public service use that includes dwelling units that qualify as affordable housing as defined in the Provincial Planning Statement the following shall apply: a dwelling or dwelling unit must be permitted by the zone; residential uses may be located on the ground floor; no minimum or maximum number of dwelling units shall apply; and, parking requirements of section 6.1.2 shall not apply. This exemption for use in any zone, however, shall not apply to any land or building used by any transportation, communications, telephone or electrical utility company for executive or administrative offices, or retail purposes, or any land or building used by any local school board for secondary school purposes.</p>	<p>Public service uses can be provided in any zone and may include affordable housing when provided by the City, Region or Province. The proposed regulations provide additional guidance to ensure that a dwelling or dwelling units are permitted in the parent zone to ensure that residential uses are compatible with uses of surrounding lands. Public service uses are generally required to meet the regulations of the zone. The proposed regulations provide flexibility to how and where dwelling units are located within a building. Regulations governing built form such as setbacks, building height, and overall FSR continue to apply. The regulations further exempt affordable housing from minimum parking requirements. Transportation services is satisfied that public service agencies will provide the appropriate amount of parking for the use, in consideration of location, access to transit etc. Minimum barrier free parking, and parking for non-residential uses continue to apply.</p>

Existing Section/Regulation (By-law 85-1)	Proposed Amendment	Rationale
<p>Section 5.13 .3 Home Businesses permitted in Duplex Dwellings, Multiple Dwellings, Semi-Detached Houses containing two dwelling units and Street Townhouse Dwellings, or on any lot containing an Additional Dwelling Unit (Detached) or an Additional Dwelling Unit (Attached):</p> <p>.4 Regulations for Home Businesses in Duplex Dwellings, Multiple Dwellings, Semi-Detached Houses containing two dwelling units and Street Townhouse Dwellings, or on any lot containing an Additional Dwelling Unit (Detached) or Additional Dwelling Unit(s) (Attached):</p>	<p>AMEND 5.13 .3 Home Businesses permitted in Duplex Dwellings, Multiple Dwellings, Semi-Detached Houses containing two dwelling units and Street Townhouse Dwellings, or on any lot containing an Additional Dwelling Unit (Detached) or an Additional Dwelling Unit (Attached) a dwelling unit not specified in 5.13.1:</p> <p>.4 Regulations for Home Businesses in Duplex Dwellings, Multiple Dwellings, Semi-Detached Houses containing two dwelling units and Street Townhouse Dwellings, or on any lot containing an Additional Dwelling Unit (Detached) or Additional Dwelling Unit(s) (Attached) a dwelling unit not specified in 5.13.1:</p>	<p>Update to title. Permitting limited list of home businesses in all dwelling types including dwelling units in mixed use buildings, in addition to apartments in multiple dwellings and additional dwelling units attached and detached (which are currently permitted).</p>
<p>5.22 f) An Unobstructed Walkway that is a minimum 1.1 metres in width, shall be provided from a street to the principal entrance of each new Additional Dwelling Unit(s) (Attached) where the principal entrance is not located on a Street Line Façade, and each Additional Dwelling Unit (Detached). The Unobstructed Walkway shall not be located within a required Parking Space;</p>	<p>5.22 f) An Unobstructed Walkway that is a minimum 1.1 metres in width, shall be provided from a street or sidewalk to the principal entrance of each new Additional Dwelling Unit(s) (Attached) where the principal entrance is not located on a Street Line Façade, and each Additional Dwelling Unit (Detached). The Unobstructed Walkway shall not be located within a required Parking Space;</p>	
<p>5.22.1 ADDITIONAL DWELLING UNIT (DETACHED) d) Where a lot is located farther than 800 metres from a Light Rail Transit (LRT) Station as shown on Appendix I, and outside the Residential Intensification in Established Neighbourhoods Study (RIENS) Area as shown on Appendix H, the minimum lot area shall be 360 square metres, or in accordance with the regulations of the zone as may be applicable for the principal dwelling type within which the Additional Dwelling (Detached) is associated, whichever is greater.</p>	<p>5.22.1 ADDITIONAL DWELLING UNIT (DETACHED) d) Where a lot is located farther than 800 metres from a Light Rail Transit (LRT) Station as shown on Appendix I, and outside the Residential Intensification in Established Neighbourhoods Study (RIENS) Area as shown on Appendix H, the minimum lot area shall be 360 square metres, or in accordance with the regulations of the zone as may be applicable for the principal dwelling type within which the Additional Dwelling (Detached) is associated, whichever is greater.</p>	<p>O.Reg 462/24 legislates that municipalities cannot impose a minimum lot area for ADUs beyond the size required for the first unit. While the provincial regulations only apply to 3 dwelling units on a lot, planning staff recommended that this be extended to 4 units as the impacts are similar and the spirit of the change is to facilitate additional housing. The minimum lot width continues to apply and provides sufficient width for driveways.</p>
<p>5.22.2 ONE ADDITIONAL DWELLING UNIT (ATTACHED) One Additional Dwelling Unit (Attached) may be permitted in association with a Single Detached Dwelling, a Semi-Detached House or a Townhouse located in a Street Townhouse Dwelling in accordance with the regulations specified by the zone category and applying to principal dwelling type in which the Additional Dwelling Unit (Attached) is located, and in addition to and as amended by the following: a) Additional Dwelling Unit(s) (Attached) shall only be located in the same building as a Single Detached Dwelling, Semi-Detached Dwelling, or Street Townhouse Dwelling.</p>	<p>5.22.2 ONE ADDITIONAL DWELLING UNIT (ATTACHED) ADD b) Despite the definition of dwelling unit, one Additional Dwelling Unit (attached) may have the required private entrance through the living space of the principal unit excluding a bathroom or bedroom, as may be permitted by the Ontario Building Code."</p>	<p>Add regulation b) to permit one additional dwelling unit to be accessed via living space of the principal unit to better align with building code permissions.</p>
<p>5.22.3 TWO OR THREE ADDITIONAL DWELLING UNITS (ATTACHED) Two (2) or three (3) Additional Dwelling Unit(s) (Attached) may be permitted in association with a Single Detached Dwelling, a Semi-Detached House or a Townhouse located in a Street Townhouse Dwelling in accordance with the regulations specified by the zone category and applying to Single Detached Dwelling, Semi-Detached House, or Street Townhouse Dwelling in which the Additional Dwelling Unit(s) (Attached) are located and in addition to and as amended by the following: b) A minimum of one pedestrian entrance to the principal building is required to face a street line; c) A maximum of two pedestrian entrances shall be permitted to face each street line, except where more pedestrian entrances are existing;</p>	<p>AMEND 5.22.3 TWO OR THREE ADDITIONAL DWELLING UNITS (ATTACHED) Two (2) or three (3) Additional Dwelling Unit(s) (Attached) may be permitted in association with a Single Detached Dwelling, a Semi-Detached House or a Townhouse located in a Street Townhouse Dwelling in accordance with the regulations specified by the zone category and applying to Single Detached Dwelling, Semi-Detached House, or Street Townhouse Dwelling in which the Additional Dwelling Unit(s) (Attached) are located and in addition to and as amended by the following: b) A minimum of one pedestrian entrance to the principal building is required to face a street line. Despite the foregoing, where additional dwelling unit(s) (attached) are being added to an existing single detached dwelling, semi-detached dwelling or street townhouse dwelling</p>	<p>Further clarifications for doors and entrances: - permitting buildings that do not currently have a door fronting the street to continue to have no door fronting the street. Certain architectural styles (e.g mid-century) may have doors in the side façade. - allowing doors leading to balconies to face the street and doors leading to below grade entrances.</p> <p>O.Reg 462/24 legislates that municipalities cannot impose a minimum lot area for ADUs beyond the size required for the first unit. While the provincial</p>

Existing Section/Regulation (By-law 85-1)	Proposed Amendment	Rationale
<p>d) Where a lot is located farther than 800 metres from a Light Rail Transit (LRT) Station as shown on Appendix I, and outside the Residential Intensification in Established Neighbourhoods Study (RIENS) Area as shown on Appendix H, the minimum lot area shall be 360 square metres, or in accordance with the regulations of the zone as may be applicable for the principal dwelling type within which the Additional Dwelling (Attached) is associated, whichever is greater.</p>	<p>which does not have a pedestrian entrance facing a street-line, the minimum number shall be zero; c) A maximum of two pedestrian entrances shall be permitted to face each street line, except where more pedestrian entrances are existing. Despite the foregoing, pedestrian entrances located below grade, and those leading to a balcony which does not connect to grade shall be excluded; d) Where a lot is located farther than 800 metres from a Light Rail Transit (LRT) Station as shown on Appendix I, and outside the Residential Intensification in Established Neighbourhoods Study (RIENS) Area as shown on Appendix H, the minimum lot area shall be 360 square metres, or in accordance with the regulations of the zone as may be applicable for the principal dwelling type within which the Additional Dwelling (Attached) is associated, whichever is greater.</p>	<p>regulations only apply to 3 dwelling units on a lot, planning staff recommended that this be extended to 4 units as the impacts are similar and the spirit of the change is to facilitate additional housing. The minimum lot width continues to apply and provides sufficient width for driveways.</p>
<p>5.33 FIVE TO TEN DWELLING UNITS ON A LOT Five (5) to ten (10) Dwelling Units on a lot without any non-residential use except permitted home business uses shall be permitted in accordance with the regulations specified by the zone category for the Dwelling(s) and shall have: a) A minimum of 20% street line façade opening which includes at least one (1) pedestrian entrance to the principal building; b) A minimum 20% of the front yard landscaped, excluding surface walkways, patios, decks, playgrounds or pathways; c) A minimum driveway width of 2.6 metres; d) Despite section 5.33 c), where a driveway is immediately adjacent to any building or structure on a lot, the driveway including any curbing shall be a minimum 3.0 metres wide.</p>	<p>ADD subsection e) to 5.33 FIVE TO TEN DWELLING UNITS ON A LOT e) An unobstructed walkway that is a minimum 1.1 metres in width, shall be provided from a street or sidewalk to the principal entrance of each dwelling unit or to a common entrance providing access to each dwelling unit.</p>	<p>Adding subsection e). The requirement for unobstructed walkway to all dwelling units in a multiple that is not subject to Site Plan Control. This ensures that emergency services and tenants can access all units and provides consistency.</p>

NOTICE OF PUBLIC MEETING

Annual Zoning By-law Update

City-wide Amendments



Have Your Voice Heard!

Planning & Strategic Initiatives Committee

Date: **January 6, 2025**

Location: **Council Chambers,
Kitchener City Hall
200 King Street West
or Virtual Zoom Meeting**



Technical and
Minor Amendments

Go to **kitchener.ca/meetings**
and select:

- Current agendas and reports
(posted 10 days before meeting)
- Appear as a delegation
- Watch a meeting

To learn more about this project
(file number ZBA24/025/K/KA), including
information on your appeal rights, visit:

**[www.kitchener.ca/
PlanningApplications](http://www.kitchener.ca/PlanningApplications)**

or contact:

Katie Anderl,
Project Manager (Planning)
katie.anderl@kitchener.ca
519.783.8926

The City of Kitchener is proposing to make minor and technical amendments to Zoning By-law 85-1 and Zoning By-law 2019-051 as part of an annual review. Minor changes are proposed to regulations including: definitions to improve clarity; deck, patio, stair and porch projections to improve consistency; and garage, walkway and driveway regulations to ensure functionality and consistency.

REPORT TO: Planning and Strategic Initiatives Committee

DATE OF MEETING: January 6, 2025

SUBMITTED BY: Garett Stevenson, Director of Development and Housing Approvals, 519-783-8922

PREPARED BY: Eric Schneider, Senior Planner 519-783-8918

WARD(S) INVOLVED: Ward 8

DATE OF REPORT: December 2, 2024

REPORT NO.: DSD-2025-004

SUBJECT: Zoning By-law Amendment Application ZBA21/012/W/ES
400 Westwood Drive
Zakia Kardumovic and Anel Kardumovic

RECOMMENDATION:

That Zoning By-law Amendment Application ZBA21/012/W/ES requesting to amend Zoning By-law 2019-051, for Zakia Kardumovic and Anel Kardumovic be approved in the form shown in the 'Proposed By-law', and 'Map No. 1', attached to Report DSD-2025-005 as Attachments 'A1' and 'A2' BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to evaluate and provide a planning recommendation regarding the Zoning By-law Amendment Application for the subject lands located at 400 Westwood Drive. It is Planning Staff's recommendation that the Zoning By-law Amendment Application be approved.
- The proposed amendment supports the creation of 5 dwelling units in a low-rise setting.
- Community engagement included:
 - circulation of a preliminary notice letter to property owners and residents within 240 metres of the subject site;
 - installation of a large billboard notice sign on the property;
 - Neighbourhood Meeting held on January 10, 2022;
 - follow up one-on-one correspondence with members of the public
 - follow up meetings, virtual and in person with neighbourhood association.
 - due to the Canada Post strike notice of the statutory public meeting was provided by email to those who responded to the preliminary circulation (240 metre post card circulation prior to postal strike) and those who attended the Neighbourhood Meeting.
 - notice of the public meeting was published in The Record on December 13, 2024.
- This report supports the delivery of core services.

This application was deemed complete on September 1st, 2021. The Applicant can appeal these applications for non-decision after November 30, 2021.

EXECUTIVE SUMMARY:

The owner of the subject lands, addressed as 400 Westwood Drive, is proposing to change the zoning on the subject lands from Low Rise Residential One Zone (RES-1) to Low Rise Residential Four Zone (RES-4) with a Site Specific Provision which identifies a Tree Protection Area over a portion of the property in Zoning By-law 2019-051. This will facilitate the redevelopment of the site with five (5) street townhouse dwellings. Staff are recommending that the application be approved.

BACKGROUND:

On September 1st 2021, the City of Kitchener deemed an application for a Zoning By-law Amendment from Zakia Kardumovic and Anel Kardumovic complete for a development concept that proposed the demolition of the existing single detached dwelling on site and replacing it with four (4) new single detached dwellings. The single detached dwelling is currently used as a rental. The current tenants would be evicted to demolish the single detached dwelling. A neighbourhood meeting was held on January 10, 2022. Through community feedback and staff comments regarding further protection of trees on site, the applicant resubmitted a new concept plan in April 2024 that increased the size of the tree protection area, and instead proposed a development concept consisting of a total of five (5) street townhouse dwellings. A postcard was sent to the neighbourhood advising of the revised plans. Meetings with surrounding neighbours and the “Greenbelt” Neighbourhood Association occurred following the recirculation.

The subject property is identified as ‘Community Areas’ in the City’s Urban Structure (Map 2 – City of Kitchener Official Plan) and designated as ‘Low Rise Residential’ (Map 3 - City of Kitchener Official Plan).

Site Context

The subject lands are municipally addressed as 400 Westwood Drive. The subject lands are on the east side of Westwood Drive near the intersection of Glasgow Street. The lot area of the subject site is approximately 0.38 hectares and the lot frontage is 50 metres. The lot contains an existing single detached dwelling. The surrounding neighbourhood is comprised of a mix of low rise residential uses, including single detached, semi-detached, and stacked townhouse dwellings.

Portions of the subject lands contain significant treed vegetation in a native upland deciduous woodland.

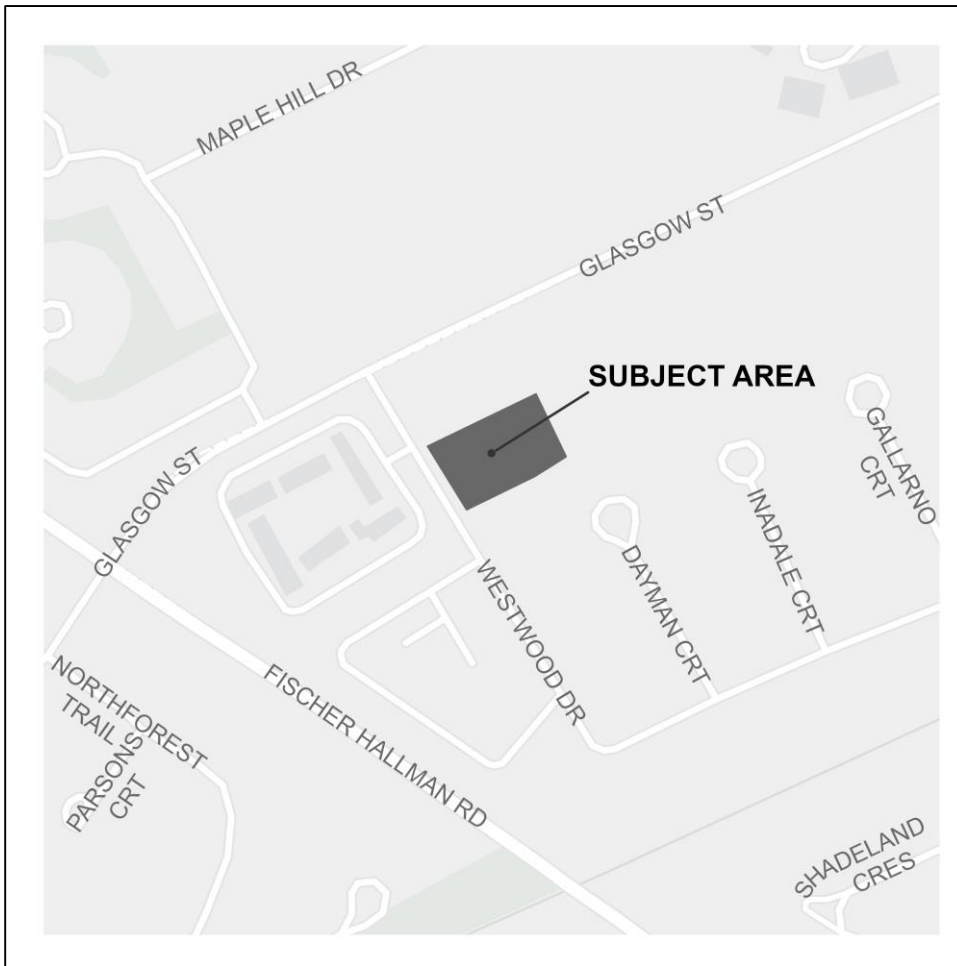


Figure 1 - Location Map: 400 Westwood Drive



Figure 2 – View of Existing Site



Figure 3: View of Existing Single Detached Dwelling



Figure 4: View of Existing Detached Garage



Figure 5: View of Existing Treed Area (looking East toward rear lot line)



Figure 6: View of Existing Treed Area (looking South toward side lot line)

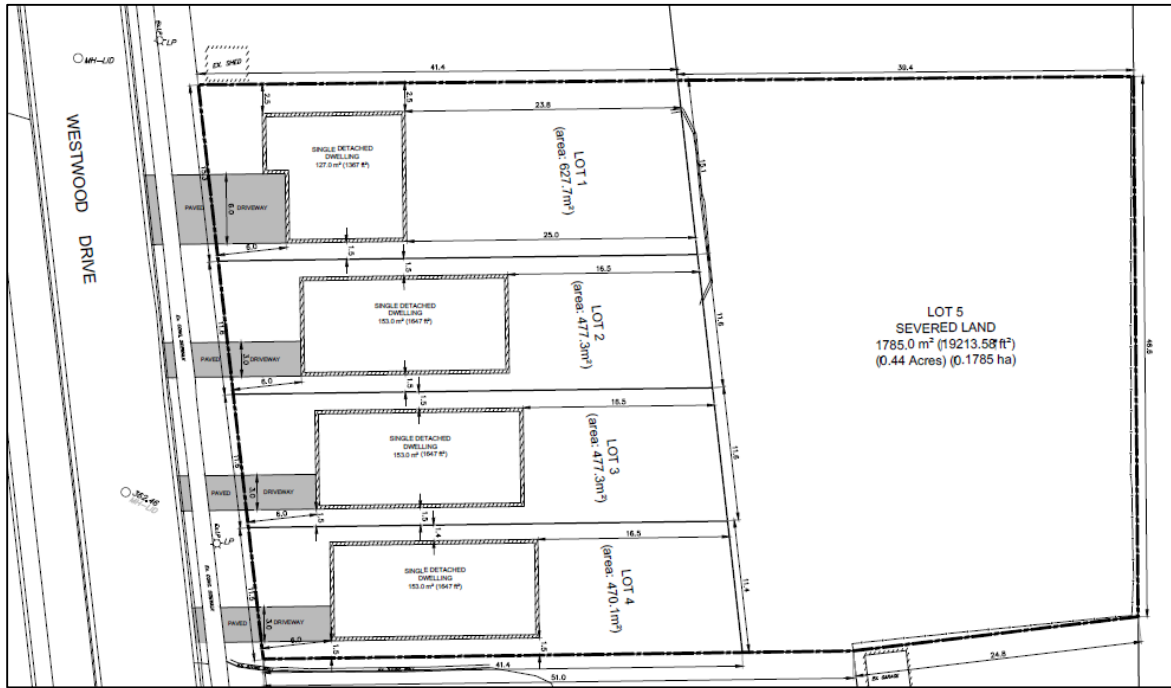


Figure 7: Original Concept Plan (4 single detached dwellings)

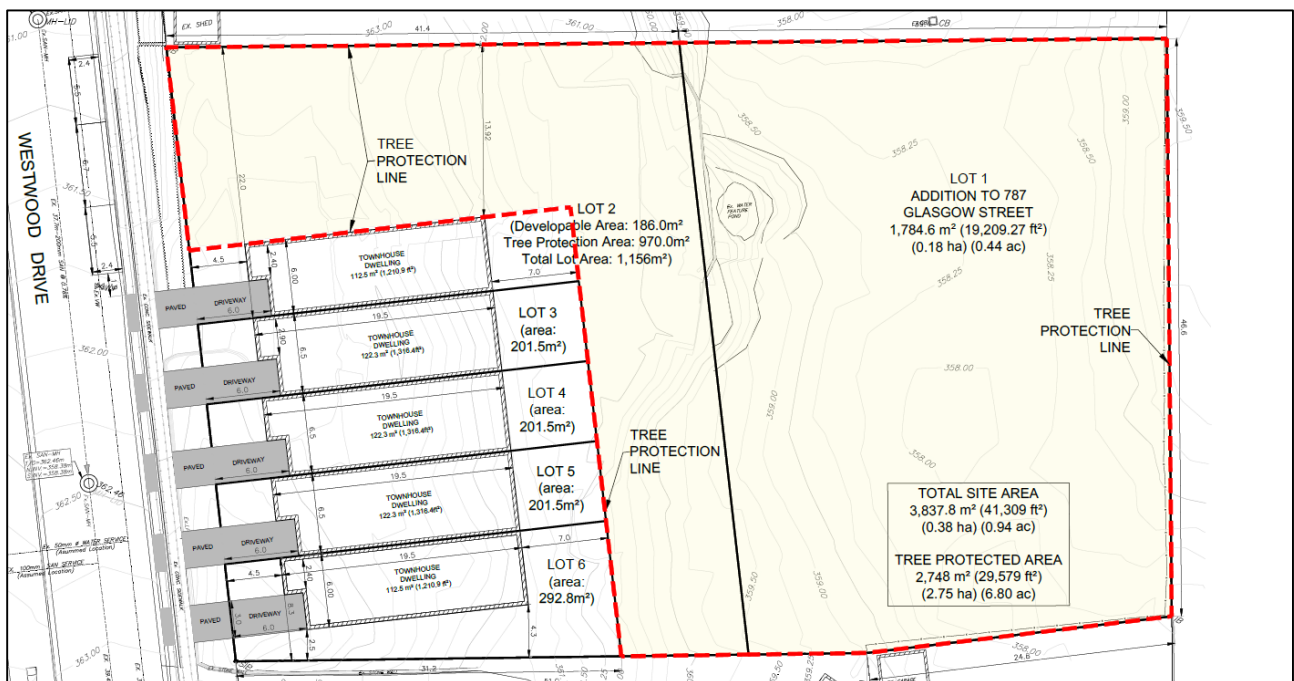


Figure 8: Revised Concept Plan (5 street townhouse dwellings)

REPORT:

The applicant is proposing to redevelop the subject property with five (5), street townhouse dwellings. A tree protection area would be established as a site specific zoning area to ensure that the balance of the lands is protected as established treed areas. In a future severance application, the treed lands would be conveyed to an existing lot fronting Glasgow Street as a lot addition (787 Glasgow Street), or included as part of one of the

street fronting townhomes. In both potential scenarios, the areas would be protected from future development as a tree protection area in the Zoning By-law.

There are 117 trees inventoried on the subject lands. The development proposal would preserve 89 of the existing 117 trees. (28 trees are proposed to be removed).

Planning Act, R.S.O. 1990, c. P.13 25.

Section 2 of the Planning Act establishes matters of provincial interest and states that the Minister, the council of a municipality, a local board, a planning board and the Tribunal, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as:

- f) The adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- g) The minimization of waste;
- h) The orderly development of safe and healthy communities;
- j) The adequate provision of a full range of housing, including affordable housing;
- k) The adequate provision of employment opportunities;
- p) The appropriate location of growth and development;
- q) The promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians;
- r) The promotion of built form that,
 - (i) Is well-designed,
 - (ii) Encourages a sense of place, and
 - (iii) Provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;
- s) The mitigation of greenhouse gas emissions and adaptation to a changing climate.

These matters of provincial interest are addressed and are implemented through the Provincial Planning Statement, 2024, as it directs how and where development is to occur. The City's Official Plan is the most important vehicle for the implementation of the Provincial Planning Statement, 2024 and to ensure Provincial policy is adhered to.

Provincial Planning Statement, 2024:

The Provincial Planning Statement (PPS), 2024 is a streamlined province-wide land use planning policy framework that replaces both the Provincial Policy Statement, 2020 and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 while building upon housing-supportive policies from both documents. The PPS 2024 came into force on October 20, 2024.

The PPS 2024 provides municipalities with the tools and flexibility they need to build more homes. Some examples of what it enables municipalities to do are; plan for and support development and increase the housing supply across the province; and align development with infrastructure to build a strong and competitive economy that is investment-ready.

Sections 2.1.6 and 2.3.1.3 of the PPS 2024 promotes planning for people and homes and supports planning authorities to support general intensification and redevelopment while achieving complete communities by, accommodating an appropriate range and mix of land uses, housing options, transportation options with multimodal access, employment, public

service facilities and other institutional uses, recreation, parks and open space, and other uses to meet long-term needs. Policies further promote, improving accessibility and social equity, and efficiently using land, resources, and existing infrastructure.

Planning staff is of the opinion that this proposal is in conformity with the PPS.

Regional Official Plan (ROP):

The subject lands are designated “Urban Area” and “Built-Up Area” on Schedule 3a of the 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 and the proposed development conforms to Policy 2.F of the ROP as the proposed development will support the achievement of the minimum intensification targets within the delineated Built-Up Area. Growth is directed to the Built Up Area of the Region to make better use of infrastructure that can assist in transitioning the Region into an energy efficient, low carbon community. Furthermore, intensification within the Built-Up Area assists the gradual transition of existing neighbourhoods within the Region into 15-minute neighbourhoods that are compact, well connected places that allow all people of all ages and abilities to access the needs for daily living within 15 minutes by walking, cycling or rolling. The Region of Waterloo have indicated they have no objections to the proposed application. (Attachment ‘C’). Planning staff are of the opinion that the applications conform to the Regional Official Plan.

City of Kitchener Official Plan (OP)

Urban Structure

The subject lands are identified as a ‘Community Areas’ in the City’s Urban Structure (Map 2). The planned function of Community Areas is to provide residential uses as well as non-residential supporting uses intended to serve the immediate residential areas. Community Areas may have limited intensification with development being sensitive and compatible with the character, form, and planned function of the surrounding context.

Land Use Designation

The subject lands are designated ‘Low Rise Residential’ in the City’s Official Plan (Map 3). Low Rise Residential areas are intended to accommodate a full range of low density housing types including single detached, semi-detached, townhouse, and low-rise multiple dwellings. The Low Rise Residential designation states that the City will encourage and support the mixing and integrating of innovative and different forms of housing to achieve and maintain a low-rise built form. No buildings shall exceed 3 storeys or 11 metres in height. No Official Plan amendment is required to implement the Zoning By-law Amendment application.

Planning staff is of the opinion that the requested Zoning By-law Amendment will facilitate a housing form that conforms with the Low Rise Residential land use designation in the City’s Official Plan.

Transportation

The City’s Official Plan contains policies to develop, support, and maintain a complete, convenient, accessible and integrated transportation system that incorporates active transportation, public transit, and accommodates vehicular traffic.

In regard to alternate modes of transportation, objectives of the Official Plan include promoting land use planning and development that is integrated and conducive to the efficient and effective operation of public transit and encourages increased ridership of the public transit system. The City shall promote and encourage walking and cycling as safe and convenient modes of transportation.

The proposed development aims to increase density on an existing site that is served well by public transit, with access to Grand River Transit Route 4 and iXpress Route 201. Cycling infrastructure nearby includes dedicated bike lanes on Glasgow Street and boulevard multi-use pathways on Fischer-Hallman Road. Off road cycling facilities nearby connect Fischer Hallman Road to Ira Needles Boulevard on trails through Northforest Park, Resurrection Park, and the Henry Sturm Greenway. Staff is of the opinion that the requested Zoning By-law Amendment conforms with the transportation policies of the City's Official Plan.

Urban Design

The City is committed to achieving a high standard of urban design, architecture and place-making to positively contribute to quality of life, environmental viability and economic vitality. Urban design is a vital component of city planning and goes beyond the visual and aesthetic character of individual buildings and also considers the functionality and compatibility of development as a means of strengthening complete communities.

Urban Design policies in the 2014 Official Plan support creating visually distinctive and identifiable places, structures and spaces that contribute to a strong sense of place and community pride, a distinct character and community focal points that promote and recognize excellence and innovation in architecture, urban design, sustainable building design and landscape design. The City will require high quality urban design in the review of all development applications through the implementation of the policies of the Official Plan and the City's Urban Design Manual.

The proposed development concept orients building massing and unit entrances towards the street line along Westwood Drive. Single vehicle driveways are proposed to lead to single vehicle attached garages. The proposed driveways are offset rather than paired up, to provide soft landscaping in the front yard to break up the hard surface asphalt areas. The City will review further urban design details through elevation drawings submitted with future severance applications to separate the dwellings.

Housing

The City's primary objective with respect to housing in the Official Plan is to provide for an appropriate range, variety and mix of housing types and styles, densities, tenure and affordability to satisfy the varying housing needs of our community through all stages of life. Street townhouse dwellings are a "missing middle" housing type that provides an option that bridges the gap between high density residential towers and single detached dwellings. The proposed housing type is an important segment in Kitchener's housing continuum.

Policy 4.C.1.9. Residential intensification and/or redevelopment within existing neighbourhoods will be designed to respect existing character. A high degree of sensitivity to surrounding context is important in considering compatibility.

Policy 4.C.1.12. The City favours a land use pattern which mixes and disperses a full range of housing types and styles both across the city as a whole and within neighbourhoods.

Policy 4.C.1.22: The City will encourage the provision of a range of innovative housing types and tenures such as rental housing, freehold ownership and condominium ownership including common element condominium, phased condominium and vacant land condominium, as a means of increasing housing choice and diversity.

Policy Conclusion

Planning staff are of the opinion that the proposed Zoning By-law Amendment Application is consistent with policies of the Provincial Planning Statement, conforms to the Regional Official Plan and the City of Kitchener Official Plan, and represents good planning.

Proposed Zoning By-law Amendment:

The subject lands are zoned 'Low Rise Residential One Zone (RES-1)' in Zoning By-law 2019-051.

The applicant has requested to change the zoning to 'Low Rise Residential Four Zone (RES-4)' and add Site Specific Provision (416) in Zoning By-law 2019-051. The requested change in zoning category is to permit the proposed use of a "Street Townhouse Dwelling".

Site-Specific Provision (416)

- a) Permit a maximum of 5 units in a Street Townhouse dwelling
- b) Permit a minimum lot width (external unit) of 8.3 metres
- c) Permit a minimum front yard setback of 4.5 metres
- d) Permit a minimum rear yard setback of 7.0 metres
- e) Permit a maximum lot coverage of 65%
- f) Prohibit Geothermal energy systems.
- g) Establish an area within (416) as a Tree Protection Area.

5 Units in a Street Townhouse Dwelling

The Low Rise Residential Four Zone (RES-4) restricts street townhouse dwellings to 4 units and requires larger minimum lot width and lot area requirements compared to the Low Rise Residential Five Zone (RES-5). This zone category is better suited to greenfield development where multiple townhouse blocks are planned along a street. Rather than greenfield development, the subject application represents an infill redevelopment opportunity that proposes replacing a single detached dwelling with 5 street townhouse units. Only one block of street townhouse units is proposed as part of the development application, using the developable space outside of the tree area efficiently. While the 'RES-5' Zone permits up to 8 units in a street townhouse block, Planning Staff prefer to amend the zone category to 'RES-4' with this site-specific zoning provision because the 'RES-5' zone would allow multiple dwellings (apartment style buildings) with no maximum amount of dwelling units 'as-of-right'. This will ensure more certainty in final built form and implement the proposed development concept more appropriately.

Lot Width (External Unit)

Lot width requirements for external unit Street Townhouse dwellings are intended to provide adequate space for site functionality, and to distinguish them architecturally from the interior units to provide for a more diverse and animated streetscape. The request for a reduction from 10 metres to 8.3 metres is for one lot, the southernmost lot. The concept plan illustrates the townhouse dwelling meeting the minimum side yard setback to the adjacent single detached dwelling to the south, providing adequate rear yard access through the side yard, and providing adequate vehicle storage in a single garage and single car driveway, which demonstrates adequate site functionality. The proposed lot width of the external unit that requires the site specific (8.3 metres) is greater than the interior units (6.5 metres) and will be capable of greater architectural articulation and differentiation from the interior units.

Minimum Front Yard Setback

The subject lands are with the 'Established Neighbourhoods Area (Appendix D)' of Zoning By-law 2019-051 which uses the averages of the abutting lands to determine minimum and maximum front yard setbacks. This regulation is intended to preserve the streetline of building massing on streets that have uniform building lines and prevent outlier setbacks in otherwise consistent areas. There is not a consistent building line visible from the streetscape on the section of Westwood Drive containing the subject lands. The abutting property to the north is a corner lot with the front entrance and driveway facing Glasgow Street. The proposed minimum front yard setback of 4.5 metres aligns with the City's standard front yard residential setback and allows for adequate building separation from the street. The proposed 4.5 metre setback also allows for maximum tree protection area in the rear of the site.

Rear Yard Setback

The requirement for a minimum 7.5 metre rear yard is intended to provide adequate building separation and adequate outdoor amenity space. The proposed rear yard setback of 7.0 metres is slightly deficient but can still provide an adequate outdoor amenity space. The rear yard is proposed to abut the tree protection area, providing adequate building separation as future development will not occur within that area. The proposed rear yard setback will maximize the tree protection area in the rear of the site.

Lot Coverage

The maximum lot coverage regulation is intended to provide for adequate areas of a lot not covered by buildings (landscaping, impervious areas, etc). In this proposal, the landscaping area will be zoned as a tree protection area and will not form part of the lots, instead protecting the lands from future development. The lots are small in size to maximize the tree protection area.

Geothermal Energy Systems Prohibited

The Region of Waterloo has indicated that the site is within a Wellhead Protections Sensitive Area (WPSA 7 and WPSA 8) and that Geothermal Energy Systems shall be prohibited in accordance with the Regional Council endorsed position on geothermal energy. The intention is to protect the Region's long-term municipal ground water supply. Planning staff have no concerns with the prohibition and the applicant is not intending to use a geothermal energy system.

Tree Protection Area

Environmental Planning Staff have identified that the subject lands contain significant treed vegetation, as part of a native upland deciduous woodland. The City's Tree Management Policy places high value on native woodland associations. Therefore, the applicant is proposing to protect the area shown as "Tree Protection Area" in the attached draft Zoning By-law by prohibiting permanent structures and infrastructure within that area.

Planning Staff are of the opinion that the proposed development concept achieves a balance of interests, by accomplishing a reasonable degree of tree protection while allowing for gentle redevelopment of the site for intensification.

Proposed Zoning By-law Amendment Conclusions

Staff is of the opinion that the proposed Zoning By-law Amendment to change the zoning of the subject lands to 'RES-4' with Site Specific Provision 416 represents good planning as it will facilitate the redevelopment of the lands with 5 street fronting townhouse dwellings that are compatible with the existing neighbourhood, which will add visual interest at the street level, new site specific zoning regulations to ensure tree savings, and which will appropriately accommodate on-site parking needs. Staff are supportive of the proposed development and recommend that the proposed Zoning By-law Amendment Application be approved as shown in Attachments 'A1' and 'A2'.

Department and Agency Comments:

Circulation of the original concept (4 single detached dwellings) for the Zoning By-law Amendment Application was undertaken in September 2021 to all applicable City departments and other review authorities. Concerns were raised in regards to tree preservation by Environmental Planning. The applicant submitted a formal recirculation request in May 2024 for a revised concept (5 street fronting townhouse dwellings) and all applicable City departments and other review authorities were circulated. Copies of the comments are found in Attachment "C" of this report.

The following Reports and Studies were considered as part of this proposed Zoning By-law Amendment:

Planning Justification Report
Prepared by: IBI Group/Arcadis, August 4, 2021

Functional Servicing and Stormwater Management Report
Prepared by: IBI Group/Arcadis, April 28, 2021

Arborist Report
Prepared by: IBI Group/Arcadis, May 4, 2021

Concept Plan
Prepared by: IBI Group/Arcadis, April 6, 2021

On Street Parking Plan
Prepared by: IBI Group/Arcadis, April 6, 2021

Revised Concept Plan

Prepared by: IBI Group/Arcadis, February 15, 2024

Revised Arborist Report

Prepared by: IBI Group/Arcadis, March 27, 2024

Revised On Street Parking Plan

Prepared by: IBI Group/Arcadis, April, 2024

WHAT WE HEARD



Twelve (12) people provided comments on the initial circulation in October 2021. Seven (7) people provided comments on the recirculation in May 2024.



A City-led Neighbourhood Meetings held on January 13, 2022 and approximately eleven (11) different users logged on



313 households (occupants and property owners) were circulated and notified

Staff received written responses from 12 residents with respect to the proposed development in the initial circulation, and 7 responses from residents for the recirculation. These are included in Attachment 'D'. A Neighbourhood Meeting was held on January 13, 2021. In addition, staff had follow-up one-on-one correspondence with members of the public. Staff have held several in-person meetings with representatives of the "Green Belt" Neighbourhood Association and facilitated meetings with the applicant in attendance as well. A summary of what we heard, and staff responses are noted below.

What We Heard	Staff Comment
The lot contains a mature urban forest and should be protected from development.	Staff concur. While some trees are proposed to be removed, a large "tree protection area" has been established to protect the significant portions of the property from development. The proposed zoning includes site specific tree protection regulations. There are 117 trees inventoried on the subject lands. The development proposal would preserve 89 of the 117 existing trees. (28 trees are proposed to be removed).
This will disrupt and change the lot fabric which is comprised of large estate lots. Proposal will create "patchwork" zoning.	The subject area contains a mix of uses, lot sizes, and building typologies. There are existing townhomes, semi-detached dwellings, and single detached dwellings on this section of Westwood Drive, including cluster townhouse multiple dwellings directly across the street.

Development should occur within the existing zoning.	The applicant has submitted a Zoning By-law Amendment Application to request to change the zoning. Planning Staff have evaluated the proposal based on a number of policies and standards and are recommending approval of a change in zoning.
Removal of trees along southern property line has caused property damage and trespass on abutting properties. Future development will exacerbate these issues.	The applicant has committed to ensuring no further trespass or property encroachment occurs. All development activities are to occur within the subject lands.
The retaining wall at the front of the site should be preserved.	Removal of the retaining wall is necessary to ensure each dwelling unit can obtain unencumbered street frontage for vehicle access and installation of new service connections. The properties are proposed to be re-graded to ensure proper drainage of stormwater and to ensure no adverse impacts to abutting lands.
The proposed development is incompatible with surroundings in terms of lot width, lot density, structure setbacks, etc.	<p>The City's Official Plan defines <i>compatibility</i> as:</p> <p><i>“Land uses and building forms that are mutually tolerant and capable of existing together in harmony within an area without causing unacceptable adverse effects, adverse environmental impacts or adverse impacts. Compatibility or compatible should not be narrowly interpreted to mean “the same as” or even as “being similar to”.”</i></p> <p>Therefore, the proposed use and lot fabric can be deemed compatible despite having differences in lot width, lot density, setbacks, etc. The proposed development represents a low-rise form of housing development that is capable of existing in in harmony with the surrounding lands and not causing adverse impacts.</p>
This will result in more parking on Westwood Drive for visitors.	The townhouse driveways will reduce the amount of on street parking on Westwood. There would be 3 spaces available on the north side of the property adjacent to the tree protection area.
Traffic will increase as a result of this development.	Westwood Drive is classified as a “minor collector” road in the City's transportation standards. Minor collector roads are designed to carry 2,000-5,000 cars per day. Traffic data volumes show that

	<p>Westwood Drive currently carries approximately 1,350 cars per day.</p> <p>Staff are of the opinion that the proposal represents a small increase in units that is comparable to detached dwellings adding additional units. Staff do not anticipate the traffic volumes significantly increase as a result of the proposed development.</p>
--	--

COMPLETE STREETS KITCHENER
STREETS FOR ALL

Summary of street classifications and map

Here is a quick summary to compare the different functions, characteristics and primary design features of each street classification.

	Local	Minor Collector	Major Collector	Arterial
Right of Way	18,0 m	20,0 m	26,0 m	30,0 m
Sidewalk width	1.8 m	1.8 m	1.8 m	1.8 – 3.0 m
Cycling facilities	Share the road. Additional traffic calming/diversion if high priority route.	Share the road. Additional traffic calming/diversion or bike lanes if high priority route.	Cycle tracks or separated bike lanes.	Cycle tracks, separated bike lanes or multi-use trails.
Motor Vehicle Volumes (AADT)	Up to 2,000	2,000 – 5,000	5,000 – 8,000	8,000 – 12,000
Speed Limit	40 km/h	40 km/h	40-50 km/h	40 – 50 km/h
Pavement width (includes parking and on-road cycling facilities if present)	7.0 m	7.0 – 12.8 m	9.0 - 14.6 m	10.8 – 19.0 m
Turning radius with Local/Minor Collector	6.0 m	6.0 m	6.0 m	6.0 m
Turning radius with Major Collector*	6.0 m	6.0 m	7.5 m	8.0 m
Turning Radius with Arterial*	6.0 m	6.0 m	7.5 – 8.0 m	8.0 – 10.0 m (if industrial, permit higher to maximum of 15.0 m)

Figure 9: Motor Vehicle Volumes for Collector Roads (Complete Streets Kitchener)

Planning Conclusions:

In considering the foregoing, staff are supportive of the Zoning By-law Amendment Application. Staff is of the opinion that the subject application is consistent with policies of the Provincial Planning Statement, conforms to the Regional Official Plan, and the City of Kitchener Official Plan and represents good planning. Staff recommends that the application be approved. The proposed application represents an opportunity to provide ‘missing middle’ housing that addresses a need in our community while ensuring significant tree savings.

STRATEGIC PLAN ALIGNMENT:

The recommendation of this report supports the achievement of the City’s strategic vision through the delivery of core service.

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 Council / Committee meeting. Notice of the Statutory Public Meeting was also posted in The Record on December 6, 2024 (a copy of the Notice may be found in Appendix ‘B’).

CONSULT – The proposed Zoning By-law Amendment Application was circulated to residents and property owners within 240 metres of the subject lands on in October 2021. The recirculation materials were circulated to residents and property owners within 240 metres of the subject lands in May 2024. In response to this circulations, staff received written responses from 12 members of the public for the initial circulation, and 7 members of the public for the recirculation, which were summarized as part of this staff report. Planning staff also had one-on-one conversations with residents on the telephone and responded to emails.

COLLABORATE – Planning Staff facilitated meetings between the applicant and the Neighbourhood Association in September 2024.

PREVIOUS REPORTS/AUTHORITIES:

- Planning Act, R.S.O. 1990, c. P.13
- Provincial Planning Statement, 2024
- Region of Waterloo Official Plan
- City of Kitchener Official Plan, 2014
- City of Kitchener Zoning By-law 2019-051

REVIEWED BY: Malone-Wright, Tina - Manager of Development Approvals, Development and Housing Approvals Division

APPROVED BY: Readman, Justin - General Manager, Development Services

ATTACHMENTS:

- Attachment A1 – Proposed By-law
- Attachment A2 – Map No. 1
- Attachment B – Newspaper Notice
- Attachment C – Department and Agency Comments
- Attachment D – Neighbourhood Comments
- Attachment E – Concept Plan

PROPOSED BY – LAW

_____, 2025

BY-LAW NUMBER ____

OF THE

CORPORATION OF THE CITY OF KITCHENER

(Being a by-law to amend By-law 2019-051, as amended, known
as the Zoning By-law for the City of Kitchener
– Kardumovic, Zakia; Kardumovic, Anel – 400 Westwood Drive)

WHEREAS it is deemed expedient to amend By-law 2019-051 for the lands specified above;

NOW THEREFORE the Council of the Corporation of the City of Kitchener enacts as follows:

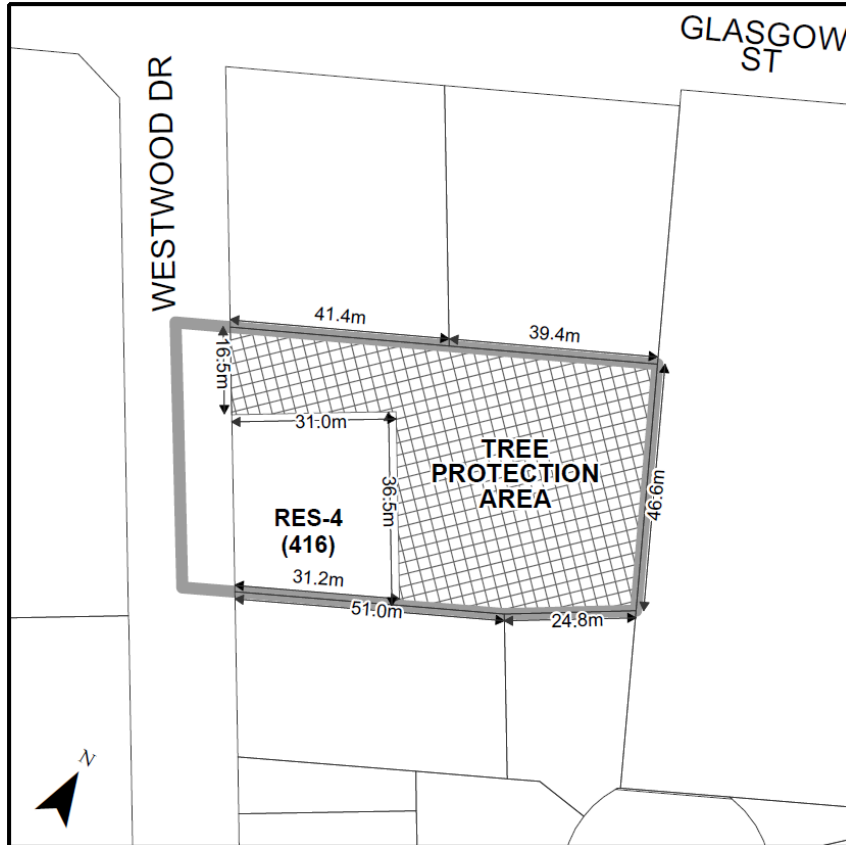
1. Zoning Grid Schedule Number 17 of Appendix "A" to By-law Number 2019-051 is hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 1 on Map No. 1, in the City of Kitchener, attached hereto, from Low Rise Residential One Zone (RES-1) to Low Rise Residential Four Zone (RES-4) with Site Specific Provision (416).
2. Zoning Grid Schedule Number 17 of Appendix "A" to By-law Number 2019-051 is hereby further amended by incorporating additional zone boundaries as shown on Map No. 1 attached hereto.
3. Section 19 of By-law 2019-051 is hereby amended by adding Section 19 (416) thereto as follows:

"416. Notwithstanding Table 7-1 and Table 7-4 of this By-law within the lands zoned Low Rise Residential Four Zone (RES-4) and shown as affected by this subsection on Zoning Grid Schedule Number 17 of Appendix 'A', the following special regulations shall apply for a Street Townhouse Dwelling Unit:

- a) The maximum number of *dwelling units* in a *street townhouse dwelling* shall be 5, not including any *additional dwelling units*.
- b) The minimum *lot width* (external unit) shall be 8.3 metres.
- c) The minimum *front yard* shall be 4.5 metres.
- d) The minimum *rear yard* shall be 7 metres.
- e) The maximum *lot coverage* shall be 65%.
- f) Geothermal energy systems are prohibited.

- g) No buildings, fences or structures (including decks, terraces, balconies or major storm water management structures and pipes) shall be located within the hatched area shown on Figure 1 hereto.

Figure 1: Site Specific Provision Map (416)



PASSED at the Council Chambers in the City of Kitchener this _____ day of _____, 2025.

Mayor

Clerk



SUBJECT AREA(S)



AMENDMENT TO BY-LAW 2019-051

AREA 1 -
 FROM LOW RISE RESIDENTIAL ONE ZONE (RES-1)
 TO LOW RISE RESIDENTIAL FOUR ZONE (RES-4)
 WITH SITE SPECIFIC PROVISION (416)

BY-LAW 2019-051

COM-2 GENERAL COMMERCIAL ZONE
 OSR-2 OPEN SPACE: GREENWAYS ZONE
 RES-1 LOW RISE RESIDENTIAL ONE ZONE
 RES-2 LOW RISE RESIDENTIAL TWO ZONE
 RES-4 LOW RISE RESIDENTIAL FOUR ZONE
 RES-5 LOW RISE RESIDENTIAL FIVE ZONE

ZONE GRID REFERENCE
 SCHEDULE NO. 17
 OF APPENDIX 'A'
 KITCHENER ZONING BY-LAW 85-1 AND 2019-051

— ZONE LIMITS



MAP NO. 1
 KARDUMOVIC, ZAKIA; KARDUMOVIC, ANEL
 400 WESTWOOD DR

0 50 100
 METRES
 SCALE 1:4,000
 DATE: DECEMBER 2, 2024

ZONING BY-LAW AMENDMENT ZBA21/012/W/ES

OFFICIAL PLAN AMENDMENT N/A

City of Kitchener
 DEVELOPMENT SERVICES DEPARTMENT, PLANNING

FILE:
 ZBA21012WES_MAP1
 .mxd

NOTICE OF PUBLIC MEETING

for a development in your neighbourhood
400 Westwood Drive



Concept Plan



Revised Plan
Recirculation



5 Street
Fronting
Townhomes



Protected
Tree
Area

Have Your Voice Heard!

Planning & Strategic Initiatives Committee

Date: **January 6, 2025**

Location: **Council Chambers,
Kitchener City Hall
200 King Street West
or Virtual Zoom Meeting**

Go to **kitchener.ca/meetings**
and select:

- Current agendas and reports
(posted 10 days before meeting)
- Appear as a delegation
- Watch a meeting

To learn more about this project, including
information on your appeal rights, visit:

**[www.kitchener.ca/
PlanningApplications](https://www.kitchener.ca/PlanningApplications)**

or contact:

Eric Schneider, Senior Planner
eric.schneider@kitchener.ca
519.783.8918

The City of Kitchener will consider an application for Zoning By-law Amendment to facilitate the redevelopment of the site with the removal of the existing single detached dwelling and replacing it with 5 street fronting townhouse dwellings.

Eric Schneider

From: Meghan M. Miller
Sent: Monday, September 20, 2021 5:10 PM
To: Eric Schneider; Margaret Johnston
Subject: [EXTERNAL] Need for increased recreation space

Thank you for notifying us of the proposed development at 400 Westwood Drive. I appreciate having the opportunity to comment and provide feedback.

There have been 2 other developments completed recently on Westwood Drive. My concern with each continues to be the lack of playground space in our neighbourhood. There have been no upgrades or expansions to Westwood Park through any of these developments, in fact we have lost access to the basketball courts that used to be part of the old Catholic school. So we have increased the density of our neighbourhood and reduced the playspace for the last 2 developments. This trend needs to change.

I've also recently learned that there are plans to remove the swings from the park in the name of "upgrades". All of this has been frustrating to see and I would like to see planning take into consideration the recreational needs of the community they are planning for. https://www.engagewr.ca/westwoodpark?tool=survey_tool#tool_tab

I would like to see the existing playground equipment expanded to include opportunities for older kids to play as well. I think that it's important to invest in this infrastructure before approving yet more development. There is underutilized forest space on the north side of Westwood Drive that could be used as a naturalized play space, or there is plenty of space on the south side of Westwood Drive if planners wanted to keep the infrastructure together.

Please let me know what your plan is for increasing the access to playground equipment on Westwood Drive. This should be included within the scope of the project, the same as supply water, waste water, and site drainage are considered before approving a development. A variance to zoning should not be approved unless it is in the best interest of the community.

Kind Regards,
Meghan Miller

Eric Schneider

From: Jonathan Cook
Sent: Monday, September 20, 2021 8:54 PM
To: Eric Schneider; Margaret Johnston
Subject: [EXTERNAL] 400 Westwood Drive - Proposed 4 lots

Hello All,

I recieved a card in the mail regarding the application for development of 400 Westwood Drive.

As a 20+ year resident of Dayman Court, I object to this proposal for a number of reasons, which I think will be a common complaint.

We purchased our home on Dayman Court as the local neighbourhood was quiet and child friendly at the time. This has been eroding in the last few years due to the increased densification along Westwood.

We have noticed a drastic increase in traffic on Westwood Drive already due to the large 3 level condo development just down the street from this proposed development, but also from the development of the former Monsignor Gleeson school down the hill of Westwood Drive at Knell st.

The last thing we need is more vehicle traffic.

We also object due to the visual impact of the streets cape as we have admired the trees and bushes along the street which add greens are to an otherwise boring street.

This development would result in these large mature trees being cut down and cleared out.

Increased curbside parking would continue to drive more parking onto our street as has been happening already, as changing 400 Westwood drive would reduce available curbside parking for this part of the street, which is already now congested with the overflow out of the condo development that was built just across the street.

We already are having problems with homes having too many cars to parking available in their own driveways or parking lots.

This section of the street is already hazardous at times due to vehicle traffic coming and going from condos and townhouses, and adding more simply compounds this problem, especially so close to the corner intersection to Glasglow.

Beside all this, these shotgun shoebox style homes do nothing for the appearance of the street or neighbourhood, but simply line the pockets of greedy developers who wouldn't consider doing this in their own neighborhood.

Jonathan Cook

Sent from my Samsung Galaxy S8+ smartphone.

Eric Schneider

From: Jesse Wilson
Sent: Wednesday, September 22, 2021 8:11 AM
To: Eric Schneider
Subject: [EXTERNAL] 400 Westwood Drive

Hey Eric,

I live at _____, just a few houses away from this proposed development. I think it's great and look forward to more density in my neighbourhood. We have lots of access to services here so it's a great place to build.

If you need neighbourhood advocates for this plan or anything please let me know!

– Jesse Wilson

Eric Schneider

From:
Sent: Wednesday, September 22, 2021 9:03 AM
To: Eric Schneider;
Subject: [EXTERNAL] Re: 400 Westwood application for development

Thank you for the notice about an application for development at 400 Westwood Drive.

I was involved in the 1978 negotiated subdivision plan for the whole property at Westwood Drive and Glasgow Street. The plan for subdivision to a total of 5 properties was agreed to and supported by the neighbourhood at both Planning and Kitchener Council. The severances to the 5 *existing* properties was done in 2 stages, with the current plans being for further subdivision on the property which contains the original home.

May we please talk by telephone to clarify some details about the circulated application plans.

Thank you.

Judy-Anne Chapman

Eric Schneider

From: Sylvia Cook <
Sent: Wednesday, September 22, 2021 3:15 PM
To: Eric Schneider; Margaret Johnston
Subject: [EXTERNAL] 400 Westwood Drive application for development

Hello,

I am a long-term resident in the area (Dayman Court) around 400 Westwood Drive and received the notice about the application for development. I would like to express my concerns about this development.

1. The area is a forested area which is a well-established forest with large mature trees, which would take years/decades to replace should they get cut down. I know it is not the whole forest in question, but is still a part of the forest and is home to wildlife. We have seen a good variety of wildlife and do not want to see them get displaced.
- 2.
3. Over the 20+ years, I have lived in this area, I have seen an increase in traffic, and most definitely experiencing the impact of cars parked on the road. In the 20 years, we have had Huntington Place developed and now the 3 level stacked condos and the infilling of Monsieur Gleason school. All this has increased traffic and especially with the stacked condos, the parking on the street is getting out of control. The portion in question for development is right where all the parking issues start. Perhaps City Planning completely underestimated the number of vehicles that people park/own and visitor spots at the condos, and people are circumventing the limited parking by parking on the street and even in our court area.
- 4.
5. Watermains, and potentially other infrastructure, are already taxed and likely overdue for an overhaul. It is almost guaranteed a minimum of one water main failure on Westwood Drive every year. The stormwater drains struggle to collect water in heavy rainfall since the already new development has removed the natural water collection capabilities.

In summary, I am expressing my disagreement and opposition to this development, or any other future development in this area. Between the 3 areas of development I have mentioned above, I believe Westwood Drive is at its max capacity for residential development and no new development should take place.

Sylvia Cook

Eric Schneider

From: Venkat Ram
Sent: Monday, September 27, 2021 9:38 AM
To: Eric Schneider
Subject: [EXTERNAL] 400 Westwood drive proposed refining

Hi Eric,

Thanks for notifying us. I am the owner of _____ This street is already crowded with the additional townhomes across the street. What is the need to resolve e 400 and add additional housing?

What is the impact to house pricing due to this? What is the impact to the drainage systems and congestion in the already busy street.?

Thanks

Venkat Ramachandran
Mobile:
Sent from my iPhone

Sent from my iPhone

Eric Schneider

From: Kathie Stone-Mason
Sent: Thursday, September 30, 2021 10:15 AM
To: Eric Schneider
Cc: Margaret.Johnston.@kitchener.ca
Subject: [EXTERNAL] FW: 400 Westwood Drive proposed development CANNOT READ THE SMALL POSTCARD RECEIVED IN MY MAILBOX

Kathie Stone-Mason

Process Server



At Family and Children's Services Waterloo we are doing our part to reduce the spread of COVID-19 while still responding to concerns about families, children and youth. For this reason, staff are working from home, and checking email and voicemail throughout the day.

If you have concerns about a child, please call extension 2, and a child protection worker will take your call.

The information transmitted, including attachments, is intended only for the person(s) or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and destroy any copies of this information.

From: Kathie Stone-Mason <
Sent: September 30, 2021 10:06 AM
To: Eric.Sneider@kitchener.ca
Subject: 400 Westwood Drive proposed development CANNOT READ THE SMALL POSTCARD RECEIVED IN MY MAILBOX

Morning:

I would hope that the City of Kitchener spend our tax dollars more wisely and deliver a flyer or bigger drawing on the concept drawing. I cannot read/see the 2 upper right drawings on this small post card about the application for development at 400 Westwood Drive.

Is this so homeowner get discouraged and toss it in the trash and not respond.

I am against any further development on Westwood Drive. I bought my home in 2016 on a quiet street, since then the school has been torn down and 128 homes built down the road from my home and up the road closer to Glasgow many townhomes were developed.

I live at _____ the middle of this drive and traffic is congested and Glasgow and Westwood and the Westwood and Westmount.

4 more homes means probably another 8 vehicles coming out of the driveway and exiting onto Glasgow.

PLEASE SEND ME MATERIALS THAT ARE LARGE ENOUGH TO READ, SO I CAN FURTHER RESPONSE. POSSIBLE MAIL OUT A LARGER VERSION TO THE HOMEOWNERS. Not sure who approved this printed version of this postage. So unfair that homeowners cannot read this.

Kathie Stone-Mason

Process Server



At Family and Children's Services Waterloo we are doing our part to reduce the spread of COVID-19 while still responding to concerns about families, children and youth. For this reason, staff are working from home, and checking email and voicemail throughout the day.

If you have concerns about a child, please call _____ and press 2, and a child protection worker will take your call.

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Eric Schneider

From: Lillian Bass
Sent: Tuesday, October 12, 2021 2:29 PM
To: Eric Schneider
Subject: [EXTERNAL] Fwd: 400 Westwood application for development
Attachments: Bass re 400 Westwood.pdf

Eric - I forgot the 'dot' in your email address first try.

Lillian

Begin forwarded message:

From: Lillian Bass
Subject: 400 Westwood application for development
Date: October 12, 2021 at 1:28:51 PM EDT
To: ericshneider@kitchener.ca, Margaret Johnston <margaret.johnston@kitchener.ca>
Cc:

Eric & Margaret,

Please see the attached letter outlining our comments re: the application for development at 400 Westwood Drive.

We understand that next steps, following the October 17th deadline for comments, will be a neighbourhood information session some time in November. We look forward to further discussions with you then.

Best regards,

Lillian & Andrew Bass

October 12, 2021

Eric Schneider
Planner
City of Kitchener
200 King St. W.
Kitchener, ON
N2G 4G7

Delivered via email to ericshneider@kitchener.ca

Margaret Johnston
Counsellor, Ward 8
City of Kitchener

Delivered via email to margaret.johnston@kitchener.ca

Re: Application for Development at 400 Westwood Drive

Dear Mr. Schneider and Ms. Johnston,

Thank you for including the properties on Maple Hill Drive in the City's recent notice about the Application for Development at 400 Westwood Drive. We have been participating in the carefully researched and considered analysis by our neighbours in the Green Belt Neighbourhood Association which we understand has been active in protecting the area's mature urban forest since the original plan of subdivision in 1978. As relative newcomers to this part of the city, we are grateful for this long history of care, particularly the leadership of Judy-Anne Chapman, which has protected the woodlots and streetscape which drew us to the neighbourhood.

We agree with the contents of the consolidated submission re: 400 Westwood Drive development, and add our further personal comments below:

- Storm water management becomes more urgent with the heavy downpours we experienced in 2021 and expect to have in a climate change future. Mature forests absorb run-off, limit soil erosion and help stabilize the water table. Run-off and drainage is a particular concern with the proposed development.
- Heat island effects are well studied and will become more pronounced as temperatures rise and summer seasons lengthen with climate change. Preservation of sizable urban forest areas is critical to reducing heat island effects, and so we should not approve intensification within mature urban wooded areas.
- As we increase the density of our city to rightly limit urban sprawl, the trees we have will become even more precious for their environmental benefits, innate beauty and protection of diminishing wildlife habitat.

- This neighbourhood is on the west side of the city, so the prevailing winds are first felt and moderated here before impacting areas closer to downtown. Removing west side trees weakens the windbreak for all properties further east, makes successive wooded areas more susceptible to wind damage, downage of power lines, blockage of streets and potential harm to buildings and people.
- While we are grateful that the Region has been able to stretch usage of the Erb St. Landfill for another 20 years, the southerly position of the cells which will be used for its remaining lifespan are prone to landfill odour being blown down Glasgow and University into our neighbourhood. Preserving substantial groups of trees helps to diffuse and slow odour transmission.

The issues raised by the proposed 400 Westwood application highlight why we believe strongly that Kitchener needs a tree preservation bylaw similar to that of the City of Cambridge which would apply to all properties, not just those greater than one acre in size. On Maple Hill Drive, most of the lots are less than one acre and several properties have been essentially clear cut of mature Sugar Maple, American Beech, Basswood and other heritage native species to accommodate rebuilds of large homes and installation of pools. We are presently concerned about plans for the property next door to us which the owner intends to demolish and rebuild. While we do agree that particular house is beyond saving, we are concerned for the trees near our property, which include Sugar Maples our arborist estimates at 125 years old. We are taking the initiative to reach out to our future neighbours to discern their plans and, if needed to save the trees, are willing to go as far as buying a strip of their lot to add to our property. Such extensive efforts by individual homeowners would not be needed if we had a city-wide bylaw that protected mature trees, even on private property.

We are somewhat heartened by Kitchener's Urban Forest Strategic Plan, but intentions to plant more trees in the near future are no substitute for protecting the mature urban canopy we already have. By the time new plantings reach the size and beneficial coverage that the existing urban forest does, two or three generations will have passed and those future Kitchener residents will be dismayed that we didn't act now to protect the future livability of the city.

Should you have any questions, please reach out at the contact information below.

Best regards,



Lillian Bass



Andrew Bass

Copy to Judy-Anne Chapman, Green Belt Neighbourhood Association

Eric Schneider

From: Kate Lawson
Sent: Friday, October 15, 2021 10:03 AM
To: Eric Schneider; Margaret Johnston
Cc: Bruce Wyse;
Subject: [EXTERNAL] 400 Westwood Dr. rezoning application

“Conserve and protect the urban forest prudently on public and private lands.”

- “It’s a Tree’s Life: Kitchener’s Sustainable Urban Forest Strategy 2019-2039”

We are writing to state our objections to the proposed zoning change and property subdivision regarding 400 Westwood Dr., Kitchener. We also want to state that we fully and enthusiastically support the submission by the Green Belt Neighbourhood Association in this regard.

We live in part of the same forest ecosystem as the subject property—a contiguous mature forest with a diversity of flora including tree species that provides a habitat for wildlife large (fox) and small (bats, rabbits, chipmunks, reptiles, etc.), and for song birds and raptors. When Bruce Wyse’s parents built our house in 1959, they planned even then to maximize the preservation of mature forest. As the property owners since 2011, we are committed to continuing to support this forest ecosystem (planting trees, treating mature ash trees for the emerald ash borer, pruning and cutting older trees, etc.).

By contrast, the 400 Westwood Dr. proposal will degrade the quality of the continuous mature forest, especially by severing and stranding the portion of forest on the adjacent lot (to the south) from the remaining mature urban forest.

We ask the City of Kitchener to show its commitment to this ecosystem; to show that it is serious about its “Sustainable Urban Forest Strategy”; and that it will act in ways large and small to mitigate climate change by denying this zoning change and property subdivision.

Please note that we are strongly in favour of intensification of housing in Kitchener to try to address the severe housing crisis that is underway. However, a mature forest is not the place to intensify the housing stock. There are few discrete ecosystems in Kitchener with the profile of the Green Belt Neighbourhood. This may sound like NIMBYism but, we hope, it will be understood as an environmentally informed position.

We understand that the current owners of 400 Westwood do not live there, have not (to our knowledge) shown an interest in the integrity of the neighbourhood or in the impact of their actions on the neighbouring properties. If this application is approved, it will encourage others to buy properties in the Green Belt with the sole intention of profiting through the cutting of trees and destruction of the ecosystem.

We thus respectfully request that the rezoning application be denied.

Sincerely,

Kate Lawson and Bruce Wyse

Kitchener N2M 2N7

Eric Schneider

From:
Sent: Friday, October 15, 2021 10:19 AM
To: Eric Schneider; Margaret Johnston: i

Subject: [EXTERNAL] 400_Westwood_Drive-Application_for_Development-Green_Belt_Neighbourhood_Association_Group_Submission
Attachments: 400_Westwood-Green_Belt_Neighbourhood_submission-JW_Chapman.pdf

Dear Eric Schneider,

Thank you for the opportunity to comment on the proposal for development of 400 Westwood Drive.

Colour card stock copies of the Planning Department post cards were delivered to the residences not covered by the Kitchener mail distribution: that is, to the remaining homes on Maple Hill, Glasgow, Knell, Westwood, Huntington, and Gallarno.

Please find attached a group submission for the Green Belt Neighbourhood.

Would you please confirm receipt of this message.

We look forward to upcoming interactions with you.

Our Ward 8 Councillor, Margaret Johnston, is cc'd.

Sincerely,

Judy-Anne Chapman, Ph.D.
Green Belt Neighbourhood Contact

400 Westwood Drive subdivision proposal involves:

- Zoning change from R2 to R4 within a mature Urban Forest

Further intensification from the 1978 Kitchener Council approved subdivision of the mature forest residential lot at the corner of Westwood Drive and Glasgow Street into 5 lots, 4 of which were created shortly after approval, with 400 Westwood then later split/intensified into 2 lots in 1999.

- *Further* subdivision of 400 Westwood Drive, 1 of the 5 1978 approved subdivided lots is now proposed for a further subdivision to be divided into 5 lots:
 - Approximately half of the area has proposed subdivision to 4 (R4) residential lots
 - Approximately half of the area, a hilly lot of mature forest, is proposed after severance to be *designated as undevelopable open space (P2)* and added to 787 Glasgow Street.

Neighbourhood Background:

The Green Belt Neighbourhood Association was formed in 1978 in response to the original subdivision plan. Green Belt is defined as Maple Hill Drive in the north to Westwood Drive in the south, and on the west [East side of Silvercrest (Kitchener) North of Glasgow / Westwood Drive south of Glasgow] to Knell Drive on the east.

Green Belt Neighbourhood Association residents negotiated with the developer and supported the 1978 Kitchener Council approved subdivision plan of the original lot at Westwood Drive and Glasgow Street.

The proposed plan and rezoning represent a direct encroachment of incompatible development into the contiguous core of the Green Belt mature Urban Forest area which will entirely sever and strand the portion of forest contained on the lot adjacent-south, from the remaining mature Urban Forest core. The intrusion of what would be deforested area is visibly apparent in the Planning Justification report submitted by the developer. Both this report and the Arborist report make no mention of the existence of the Green Belt Neighbourhood and do not acknowledge that the development is proposed within it.

Aerial View of The Green Belt:



- Legend:
- Green Belt Neighbourhood
 - Original 1978 Lot at 400 Westwood
 - Past Proposed Intensification Rejected by the OMB
 - Current Proposed Development Lot (400 Westwood)

Premises for 1978 subdivision:

- Zoning would be maintained, so there was no negative precedent to impact nearby mature forest.
- Zoning for the property permitted the increase (intensification) from 1 to 5 residential lots with agreement and support from the Green Belt Neighbourhood Association.
- Tree plans and tree protection measures during development were put in place to protect the undeveloped mature forest.
- A good draft of the Kitchener Tree Preservation Bylaw existed, however, was not yet approved.

Characteristics of current proposal

Quantification of tree losses based on the arborist's report:

Trees for Removal		Condition			Grand Total
Preservation Priority	Common Name	Good	Fair	Poor	
High	Sugar Maple	3	2	1	6
High Total		3	2	1	6
Moderate	American Beech	1	1		2
	Basswood		1		1
	Cherry sp.	1			1
	Sugar Maple		2		2
	Yew sp.	1			1
Moderate Total		3	4		7
Low	American Beech		1	3	4
	Colorado Blue Spruce			1	1
	Magnolia Sp.	1			1
	Norway Maple	1			1
	Sugar Maple			6	6
	Yew sp.		1		1
Low Total		2	2	10	14
Grand Total		8	8	11	27

Potential Damage			Condition		Grand Total
Preservation Priority	Common Name	Location	Good	Fair	
High	Sugar Maple	795 Glasgow St.		1	1
		Proposed development lots	4	1	5
		Shared property boundary (795 Glasgow St.)	1		1
High Total			5	2	7
Moderate	Norway Spruce	Proposed development lots	2	2	4
		Proposed severed lot	3	1	4
		Shared property boundary (795 Glasgow St.)	1		1
	Sugar Maple	Proposed development lots		1	1
Moderate Total			6	4	10
Low	Norway Spruce	Proposed development lots		1	1
Low Total				1	1
Grand Total			11	7	18

Additional findings:

- The arborist's report indicates that written approval is required by 795 Glasgow for the possible damage to trees A & B on their property boundary.
 - *Residents at 795 Glasgow do not approve*, given the 2 trees are an important part of their tree inventory.
 - There are additional concerns about negative impact to other trees from root damage, with a foundation inset of only 2.5 meters for the building on lot 1 nearest their property.

- There is no reference in the supporting documents to substantial impact on 396 Westwood's trees or property.
 - 396 Westwood residents alert the Planning Department to an error in identification of trees along shared boundary with common ownership in Arborist's report. These trees will require the written approval of 396 Westwood for removal, and agreement will not be granted. Additionally, there is little mention of the presence of a large and mature cedar hedge natural barrier along the shared boundary, also requiring written approval from 396 for removal, which will not be granted.
 - There is a lack of acknowledgement of the ownership of the retaining wall by 396 Westwood. This wall is identified numerous times in the supporting documentation of the developer as "to be removed" as part of the development plan but its planned removal is omitted from the primary plan drawing submitted in the application. No notice of such a plan has been given to the property owners and approval of the owners has never been sought by the developer for such an action and would amount to a destruction of property.
 - The development group did not have the correct reference point and should revise the report accordingly, regarding:
 - Trees contained within the elevated terrain common boundary area and held in place by the retaining wall
 - Risk of collapse of boundary trees and retaining wall from any tree removals or excavation of supporting earth along the boundary of the proposed development lot.
 - Planned surface grading differentials between the 2 properties
 - Removal of the retaining wall, which is located solely on the 396 Westwood property, *without consent*.

- Further effects on neighbouring properties may be submitted individually or in a later report.
- Notice signs, which the applicant is required to clearly post in front of the property as part of the application process, have not been posted as of the time of this writing (October 12th, 2021)

Objections to the current Subdivision Plan for 400 Westwood

1. The proposed zone change from R2 to R4 is against the 1978 negotiated agreement of subdivision for this mature Urban Forest. The 1978 plan was already a 2-stage intensification from 1 residential lot to 5, and it maintained the zoning of the original lot. The second stage of subdivision occurred in 1999 at a time when 400 Westwood, like the rest of the mature forest properties along Glasgow Street, Silvercreek and Maple Hill had a R2 zone. The new 400 Westwood property maintained its R2 zone, while 35 Dayman was zoned R2 at the rear and R3 at the front.
2. A zoning change to permit greater residential intensification now, in a Mature Urban Forest is inappropriate, will negatively impact the mature forest of nearby properties, and will set a negative precedent which could quickly lead to the breakdown of this contiguous mature Urban Forest. The move is counter to Kitchener's Strategic Plan for Urban Forest which seeks to increase Kitchener's Urban Forest. Protection of existing mature Urban Forest aligns with the city's Strategic Plan. All surrounding properties with mature Urban Forest are zoned R2.
3. Recently, the OMB rejected the zoning change and intensification for another mature forest property at Silvercrest Drive and Glasgow Street, opposite the same town houses that 400 Westwood Drive faces, in part based on lack of comparability between properties with/without mature forest. *Development and intensification in mature urban forest needs to be distinguished from development on land without mature urban forest.* This is the most analogous, and most recent precedent available, contrary to examples used in the developer's Planning Justification report.
4. The proposed plan would result in the complete elimination of the single largest section of mature Urban Forested property frontage along the entirety of Westwood Drive.
5. 396 Westwood (R2) is oriented such that the front of the house faces the mature trees and cedar hedge natural barrier along the boundary shared with 400 Westwood (R2) and the back faces 392 Westwood (R4). Change of 400 Westwood to R4 would orphan 396 Westwood's R2 property between two R4 lots, disrupt the orderly transition from R4 to R2 on the street and sever a section of the forest from the contiguous mature Urban Forest core.
6. The parking plan is inadequate, providing only single car driveways with heavy dependence on on-street parking without consideration of existing overflow and congestion on street caused by inadequacy of parking allocation for recently developed townhouses. Further increases in on-street parking within a span of multiple GRT and school bus stops would be inappropriate.

7. The proposed development is incompatible with surroundings in terms of lot width, forested frontage, lot density, structure setbacks, structure heights, parking accommodation, ratio of lot area to structure area and represents a disorderly transition of zoning along the street.
8. The proposed development does not represent gradual intensification as stated in the Planning Justification Report since the property is surrounded by mature urban forest developed with a R2 zone. The 400 Westwood Drive property has a R2 zone that would permit subdivision into two R2 lots.

Recommended Changes to Plan for Subdivision of 400 Westwood Drive:

We recommend the lot maintain its R2 zoning which, based on the frontage for 400 Westwood Drive would permit subdivision to two larger lots, rather than 4 on the western half of the property.

- Two larger homes side by side near Westwood Drive could be built at the front of the 2 new properties. This doubling of residences would be intensification, within existing zoning. We would support a minor variance to building code should it be required to avoid the addition of a second cut through the front forest.
- The existing single entrance off Westwood Drive would provide side access to each of the 2 new properties without property front tree loss.
- The footprint of the existing structure would support two smaller structures, instead of the current one large home, with minimal impact to existing trees.
- The hilly mature forest behind the lots could be protected during development.
- A positive precedent would be set for future developments of mature forest.
- The developer's existing plans could be easily modified to suit the revised plan in a manner which is amicable to all adjoining landowners and the greater community.
- Developer must make all reasonable efforts to avoid obvious conflicts which would endanger the safety and property of adjacent and nearby residents and properties.
- Developer should be considerate of, and place some emphasis on respectful maintenance of existing adjacent uses of land and existing natural-barrier privacy envelopes.
- Maintenance and protection of Kitchener's existing mature Urban Forest while planting small trees elsewhere is the most efficient mechanism to increase Urban Forest throughout the city and meet the goals of City's Strategic Plan.

- The Green Belt Neighbourhood Mature Urban Forest is a resource enjoyed by many in Kitchener with the Glasgow traffic calming measures, Regional bicycle path, and side walks. Please protect the existing mature Urban Forest.

Respectfully submitted on behalf of concerned Green Belt Neighbours,

Judy-Anne Chapman, PhD,
Green Belt Neighbourhood Contact.

cc Joe Jasinskas

Paul Goodwin

Saladin Sahinovic

Alen Sahinovic

Murray and Susan Kohler

Denise Nowak

Kate Lawson

Bruce Wyse

Lillian Bass

Andrew Bass

Jim Chapman

October 15, 2021

Via E-mail (eric.schneider@kitchener.ca)

Eric Schneider
Planner
City of Kitchener
200 King Street West
Kitchener, ON N2G 4G7

John S. Doherty
Direct +1 519 575 7518
Direct Fax +1 519 571 5018
john.doherty@gowlingwlg.com
File no. K0567317

Dear Mr. Schneider:

Re: Letter of Objection
Proposed Re-development of 400 Westwood Drive, Kitchener

We are counsel for Andrew Goodwin and Joe Lasinkas, owners of property municipally described as

We write further to the Zoning By-law Amendment and Consent applications for 400 Westwood Drive, Kitchener (the "**Subject Property**"). The owners of the Subject Property are proposing to demolish the existing residence and develop four (4) single detached lots/dwellings on the Subject Property (the "**Redevelopment**") next door to our Clients' property, as well as conveying the rear half of the Subject Property to the owner of 787 Glasgow St, as a lot addition. While our Clients were provided with a written notice of the Redevelopment in the mail, no notice sign has been posed in front of the property as of the time of writing this letter and there may be members of the public who have not been provided with sufficient notice.

Historic Development of Subject Property

Munk Subdivision and Established Green Belt

The Subject Property is located near the intersection of Westwood Drive and Glasgow Street, and the single residence is located on a portion of Lot 1 of the original four-lot Yvonne Munk Subdivision Plan (the "**Munk Subdivision**") established in the late 1970s (copy of plan attached at **Tab "1"**). The Munk Subdivision lands and the broader neighbourhood around Glasgow Street are characterised by a green belt of mature forest.¹ When the application for the Munk Subdivision was made, the Green Belt Neighbourhood Association was formed in response to the application, and the Association agreed to support the application in exchange for the preservation of the Green Belt located on the subdivision lands, including the following conditions,

"4. Existing Conditions

¹ Bounded by Maple Hill Drive in the north to Westwood Drive in the south, and on the west [East side of Silvercrest (Kitchener) North of Glasgow / Westwood Drive south of Glasgow] to Knell Drive on the east.

The property being subdivided is at the corner of Glasgow Street and Westwood Drive. The property will retain its Township Residential zoning which requires lots with a minimum area of 0.20 hectares (one-half acre). The surrounding property is residential with large lot development along Glasgow Street and Semi-Detached development along Westwood Drive. The lot is heavily wooded."

(see attached letter from Green Belt Neighbourhood Association Coordinator Judy-Anne Chapman, dated October 22, 1999 at **Tab "2"**)

The 400 Westwood 1999 Severance

In 1999, more than 20 years after the Munk Subdivision was established, a further severance was approved subdividing Lot 1 further and allowing for a single infill site at the south-eastern rear of the Subject Property fronting onto Dayman Court. This Severance left the portion of Lot 1 that currently comprises the Subject Property today, including the retention of the woodlot at the rear of the property.

At the time of the 1999 severance application, City Council was reminded of the agreement between the Green Belt Neighbourhood Association and the original developer. As a condition of approval, the City required a Tree Preservation/Enhancement Plan which minimized the impact on the wooded character of the severed lot, consistent with the other Munk Subdivision lots.

The Current Re-Development Application

The current redevelopment application seeks to subdivide the Subject Property into five (5) lots, as detailed below in the table included on page 11 of the IBI Planning Justification Report,

Description	Proposed Area	Proposed Frontage
Lot 1	627.7 sq. m	15.3 m
Lot 2	477.3 sq. m	11.6 m
Lot 3	477.3 sq. m	11.6 m
Lot 4	470.1 sq. m	11.5 m
Lot 5	1,785.0 sq. m	0.0 m (on Westwood Drive)

The proposed re-development would require a significant jump in zoning from R-2 to R-4 and result in the original Lot 1 from the Munk Subdivision being subdivided into six (6) separate lots (it is currently two [2] lots as a result of the 1999 severance), with four development parcels shoe-horned between the same lots from the Munk Subdivision, with their same estate lot dimensions and wooded character.

Our Clients sought a planning opinion from Mark Dorfman, who has opined that no more than three (3) residential lots and R3 zoning is appropriate for the Subject Property from a planning perspective. He also cautions the City of Kitchener to not amend the Zoning Bylaw, then later deal with the site impacts as site plan issues, without first consultation with the neighbors in the community. A copy of his planning opinion is attached at Tab **"3"**.

We note that earlier this year, the City's Committee of Adjustment also refused Consent Applications sought for the purpose of creating a similar four unit infill re-development application for a single existing lot at 654 Rockway Drive (Submission No.: B 2021 to B 2021-023) (Committee Decision Attached at

Tab “4”). In that case the property was already zoned R-4 Residential as-of-right but the Committee concluded that it was “not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood”, which is required by Sections 4.C.1.8 and 4.C.1.24 of the City’s Official Plan.

Impacts on Adjacent Properties

While Mr. Dorfman has opined that R3 zoning and a three (3) unit development could represent maximum intensification of the Subject Property, there are a number of physical impacts on the adjacent properties which would prohibit a four (4) unit development, and may also prohibit even a three (3) unit re-development.

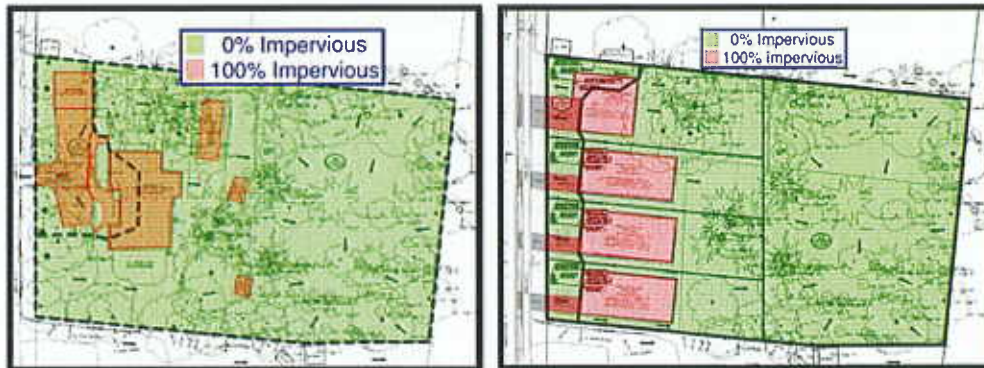
Change in Grade

Significant re-grading is proposed across the Subject Property to accommodate the re-development proposal. As detailed on the Existing Condition and Removal Plan (Sheet 1) contained in the Functional Servicing and Storm Water Management Report, the owner is proposing to remove the retaining wall along the entirety of the frontage of the Subject Property on Westwood Drive, and a portion of the wall located on 396 Westwood Drive. We understand that this removal is for the purpose of lowering the grade of the Subject Property by approximately 1-1.25 metres towards street level, to accommodate the additional building lots, and that the result of this change in grade will necessitate the removal of numerous mature trees.

Drainage

On page 29 of the IBI Planning Justification Report, it is suggested that “Additional stormwater controls are not required due to the relatively small increase in imperviousness and the maintenance of existing drainage patterns.” In light of the significant grade change proposed, it is hard to understand how existing drainage patterns can be maintained, and the suggestion that there is only a small increase in imperviousness is misleading.

On page 29 of the Planning Justification Report, IBI states that the average imperviousness of the development lands will increase from 13% to 18%. These percentages are detailed in the Imperviousness Analysis on pages 3 and 4 of the Functional Servicing and Storm Water Management Report. IBI arrives at these percentages by averaging the impervious area of the entire site (mapping reproduced below), including the woodlot at the rear of the site which will be conveyed to the owner of 787 Glasgow Street, rather than the area in which the new lots are proposed.



In calculating the average existing imperviousness, IBI includes the sheds and a pool, which are additional impervious uses which may be deployed on any of the proposed four lots. Using the before and after percentage of imperviousness based on the size of the entire property (including a woodlot that will not be developed and will be conveyed to a third party) does not accurately gauge the impact on drainage caused by the development at the front of the property, where only minimal setbacks from the adjacent properties to the North and South are proposed. The 13% and 18% before and after averages identified by IBI were generated by dividing the 0.05 ha of predevelopment impervious areas and 0.07 ha post development impervious areas by the total 0.38 ha Subject Property. The problem with this approach is that it does not gauge what percentage of the development area will be impervious after the woodlot has been transferred to another owner.

The table from page 11 of the IBI Planning Justification Report reproduced above, identifies the rear woodlot portion of the Subject Property as being 1,785 square metres, or approximately 0.1785 ha. If 0.1785 ha is subtracted from the Subject Property's total 0.38 ha, it leaves 0.2015 ha for the four proposed development parcels, and an average coverage rate of 34% ($0.07\text{ha} \div 0.2015$) for this area. Even with the inclusions of the sheds and pools present on the Subject Property, there is an increase in the average impermeability from 13% to more than double that, at 34% for the four proposed development lots.

It is not clear that the proposed development can account for these additional flows, especially where the grade is changed dramatically, and only minimal setbacks are provided for. Our Clients do not consent to accepting additional stormwater flows from the Subject Property as a result of a failure to account for the additional impermeable area and its proximity to the property line.

Loss of Mature Trees

It is clear from the Existing Condition and Removal Plan, as well as the proposed removal of the retaining wall and respective grade change, that numerous mature trees are proposed to be removed. To accommodate the three additional driveways off of Westwood Drive, and as a result of the minimal separation between the proposed residences, there is also very little room to reinstate any equivalent sized trees and it is not clear from the Arborists Report how the significant loss of trees will or can be addressed through new plantings. As a result, the Subject Property will no longer have the wooded character of the adjacent properties along Westwood Drive and Glasgow Street.

Page 8 of the IBI Arborist Report indicates that they have surveyed a total of 122 trees on the Subject Property and another 21 on adjacent properties. They indicate that 70 trees will be preserved on the woodlot (conveyed to 787 Glasgow Street), and only 26 on the proposed development lots. There are 27 proposed tree removals on the Subject Property, only three of which are recommended to be removed due to their alleged hazard status.

Based on IBI's survey, the proposed development would see more than half of the 52 trees in the area of the proposed development lots removed. This is not in keeping with the character of the adjacent lots along Glasgow Street and Westwood Drive, and the preservation of the Green Belt a condition to the Munk Subdivision approval. Our Clients are also concerned that these are not all of the trees that will be affected, and that some have been missed in the IBI survey. Our Clients are also concerned that additional trees will be damaged and lost as a result of the significant change in site grading, along with the proposed removal of the retaining wall.

In addition to the trees located on the Subject Property, on page 5, IBI notes that there are several trees located in close proximity to the property boundaries which are proposed to be removed. They have assumed that any shared tree located on the property boundary or within 0.3 meters will, in accordance with the *Forestry Act*, require written approval from all property owners prior to initiation of any work and tree removals. To be clear, our Clients' consent was never sought by the developer and will not be granted for the removal of any shared tree protected by Section 10 the *Forestry Act*, nor the removal or damage to any trees on their property as a direct or indirect result of the proposed development.

It is also unclear to them how the minor setbacks proposed could be accomplished without the removal of these trees, including as an indirect effect of the removal of the retaining wall.

Loss of Screening and Privacy

As a result of the loss of more than 50% of the trees across the area of the proposed development lots, there will be a loss of screening between the Subject Property and the adjacent properties. This will be exacerbated by the limited setbacks proposed. In addition to the loss of trees, other vegetation will also be removed as part of this process, and the lowering of the grade on the Subject Property will only exacerbate this loss of privacy.

Precedent

In 2011, the City of Kitchener's Committee of Adjustment refused to grant the necessary permissions to redevelop 814 Glasgow Street (a similar wooded estate lot approximately 100 metres from the Subject Property) from a single residence to three residential lots. The decision of the Committee was appealed to the Ontario Municipal Board (the "**Board**"), and the appeal was dismissed (Decision attached at **Tab "5"**). In dismissing the appeal the Board made the following findings based on the expert planning evidence of Mr. Dorfman, which remain applicable:

...The Provincial mandate for intensification is not a licence [*sic*] to abandon sound planning principals [*sic*], or to diminish appropriate land use planning standard in search of more density. Alternatively, intensification requires sensitive design as stated in the City of Kitchener's Official Plan that "shall be consistent with the massing, scale, design and character of that neighbourhood and both appropriate landscaped areas and appropriate parking areas are provided."

The Board would note that the existing zoning standards of the City of Kitchener covering this area are substantial in comparison to contemporary residential zoning standards found to the immediate west. However, the facts in this case are that the standards established by Zoning By-law 85-1 of the City of Kitchener being "Residential Two Zone (R2)" are minimum standards when compared to the development that has already occurred in this area and provides a suitable regulatory framework for the intensification of this area. The Board finds in this case that to further reduce the lot area standard for Lot A would not result in appropriate development consistent with the form of development that characterizes this neighbourhood of the City of Kitchener, and that on this basis the relief sought for proposed Lot A is not minor and would not meet the intent and purpose of the City of Kitchener's Official Plan and Zoning By-law and would not result in the appropriate development of this area...

As noted by the Board in their decision, and in the recent decision by the City's Committee of Adjustment refusing to grant a similar 4 lot infill application, intensification "shall be consistent with the massing, scale, design and character of that neighbourhood".

Conclusion

Our Clients are not opposed to reasonable development but not at the expense of sound planning principles. They therefore ask that the City deny the zoning by-law amendment and consents sought to permit a 4 lot development, as this clearly does not represent good planning in the public interest.

In a spirit of neighbourly co-operation, our Clients would, however, be willing to meet with the owners of 400 Westwood Drive and other impacted property owners to see if a more appropriate scale development could proceed which addresses their concerns with respect to grade change, drainage, the loss of trees, screening, and the other physical impacts to their property. Our Clients therefore ask that sufficient time be provided between the neighbourhood information session and the Committee and City Council decisions so that these discussions may take place.

Yours very truly,

Gowling WLG (Canada) LLP

John S. Doherty

JSD:hp
Encl.

cc: City of Kitchener Clerk (clerks@kitchener.ca)
Jacqueline Armstrong Gates and Jonathan Minnes, Gowling WLG (Canada) LLP
Clients

TAB 1

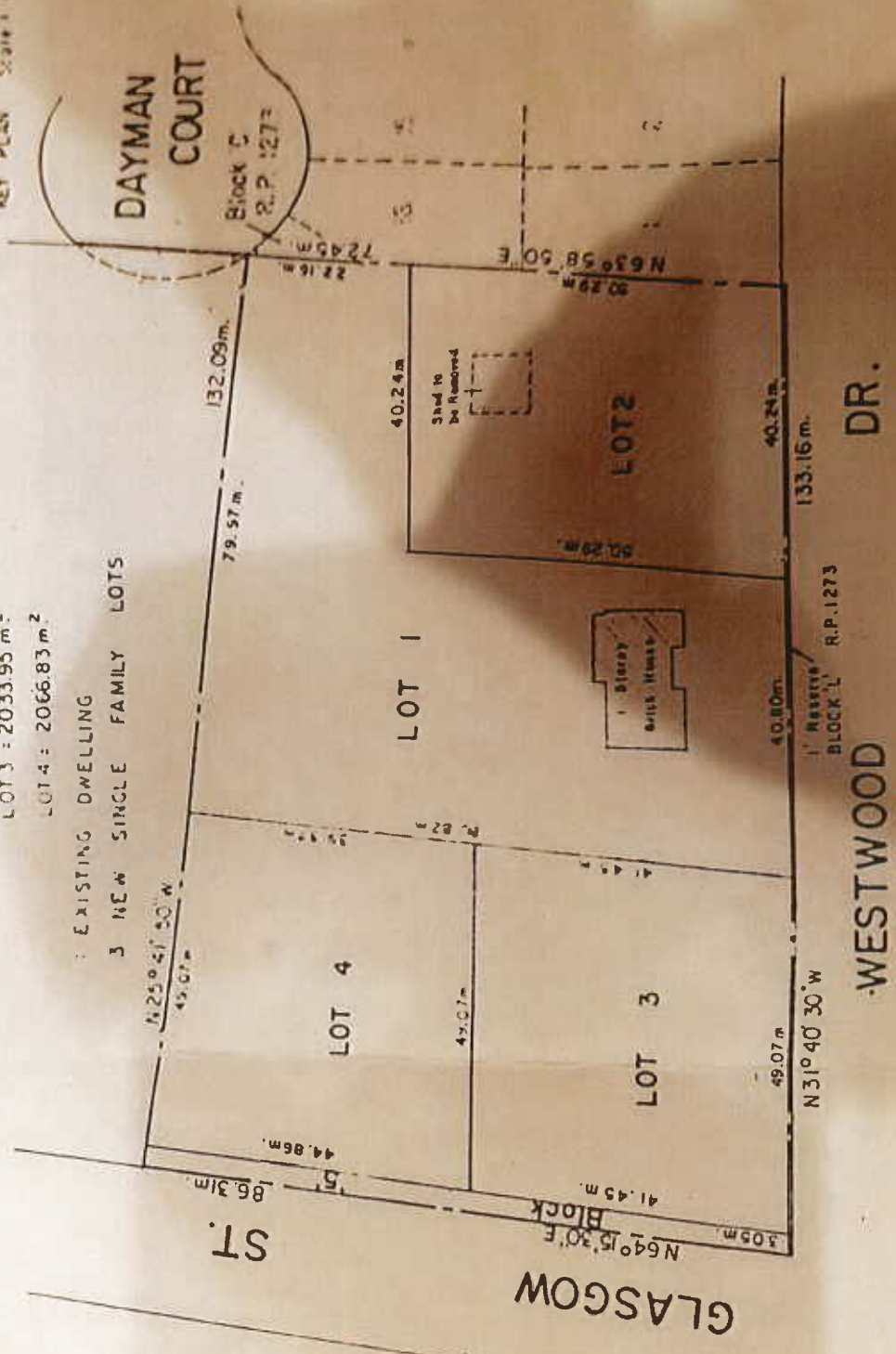
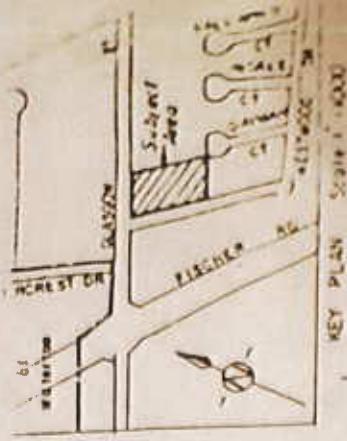
- SUBDIVISION PLAN -

For IVORNE MUNK

TOTAL AREA : 10,528.16 m²
 ZONING ALL TWP R
 AREA OF BLOCKS : 263.25 m²

LOT 1 : 4140.46 m²
 LOT 2 : 2023.67 m²
 LOT 3 : 2033.95 m²
 LOT 4 : 2066.83 m²

EXISTING DWELLING
 3 NEW SINGLE FAMILY LOTS



TAB 2

Kitchener, Ontario.
October 22, 1999.

Councillor Chris Weylie,
West Ward

Kitchener, Ontario.

Dear Councillor Weylie (Re: Committee of Adjustment Application No. B 61/99),

Thank you for representing me at the Committee of Adjustment meeting on Tuesday, October 26th. I had a hysterectomy on Thursday, October 14th so am unable to personally attend the meeting or to arrange for an informed neighbourhood representative to attend on my behalf on such short notice.

The severance of Dr. and Mrs. Nurse's property was only brought to my attention on Wednesday, October 20th by Dr. Nurse. Over the last two days, I have discussed the current situation with both the Nurses and the Planner involved, Zyg Janecki.

There is a negotiated **Plan of Subdivision** from 1978/79 covering the original development of the Munk property from which this current Nurse property derived. I was the neighbourhood contact for the original **Plan of Subdivision** and am objecting both about

1. the current proposed severance

and

2. the process under which this severance is being considered.

1. Current severance:

- The negotiated settlement for the **Plan of Subdivision of the Munk property** (see attached sheets) came with the following clause:

"4. Existing Conditions

The property being subdivided is at the corner of Glasgow Street and Westwood Drive. The property will retain its Township Residential zoning which requires lots with a minimum area of 0.20 hectares (one-half acre). The surrounding property is residential with large lot development along Glasgow Street and Semi-Detached development along Westwood Drive. The lot is heavily wooded."

The intent of this clause was to preserve the nature of development **within the woods** to be similar by zoning category to adjacent wooded properties; this was protective of adjacent, or like, treed properties in that it preserved the nature of treed development, not setting a precedent for higher zoning in future development.

While the final original diagrams do not indicate a severance line for the intended (even at that time) eventual subdivision of the block of land now represented by the Nurse property, it was understood by both the developer and neighbourhood that this would likely take place sometime in the future at a time when the (future) landowner decided how to split the property. There was an understanding that the neighbourhood would not have grounds for objecting to such a severance should it proceed exactly along the lines of the original **Plan of Subdivision** because of the precedent set by the original subdivision. I have

steadfastly reminded old, and informed new, neighbours of this precedent and implications in several decades of neighbourhood work.

The zoning categories have changed through the years, but the developed lots from the original Munk subdivision all now have an R2 zone (10,000 square feet minimum; 0.223 acres), although they, like the surrounding large treed lots, greatly exceed this minimum, i.e. 1/2 acre lots are 21,780 square feet in size and many nearby properties are at least 1 acre in size.

Zoning would be consistent with adjacent zoning if it was R2; therefore, the analogous appropriate zoning for a severance of the Nurse property should be an R2 (10,000 square feet) not an R3 (minimum 4,886 square feet or 0.1 acres).

Implications:

- i. The current size (8,961 square feet; 0.2 acres) of property to be created by the severance is closer to an R2 zone, but creates a property that is out of character by R3 zoning category with adjacent treed properties, including those created and developed by the original Plan of Subdivision. It would set the precedent for implementation of treed development at an even smaller size throughout the area.
- ii. The current application for severance should be rejected, in favour of a severance that creates an R2 lot. This would have the end result of following the intention of the original Plan of Subdivision. The neighbourhood would be supportive of an expeditious processing of any zone change application.
- iii. The development under an R2 zone may not only save trees in the current development (i.e. factors determining base of house and effect on trees will be other than those of house size for R2 versus R3 zoning: soil conditions, drainage, tree loss, etc.), but would not set a detrimental precedent for future development. It would be consistent with intent specified in the negotiated Plan of Subdivision.

2. Process for this severance:

Given this is a last implementation of intent of the Plan of Subdivision which created the Nurse property and

the nature of the proposed severance, which departs from the intended character of development under the Plan of Subdivision,

the current process/framework (under the Committee of Adjustment) for considering this changed intention of implementation of the original severance is inappropriate.

- i. The circulation was restricted to only those within a 200 foot (60 meter) radius of the Nurse property.
- ii. I live two properties away from the 200 foot limit (well within the 120 meter limit for Planning process circulation), and did not receive a circulation.
- iii. I also did not receive notification as the original neighbourhood negotiator for the Plan of Subdivision which I would have under the Planning process.

These three facts resulted from the consideration of the subdivision as a straight forward severance.

Had the departures from intent of original Plan of Subdivision been noted by Planning Staff, and a Planning framework been implemented, I would have been included in the original circulation as would others in the neighbourhood who were founding participants in the original Plan of Subdivision. We have had relatively little change in residents of the adjacent lots in the over two decades of implementation of the Plan of Subdivision.

Concluding requests as a result of the above considerations:

That you reject the current proposal for severance.

and either

1. Postpone approval of any severance, pending presentation of a severance which is in character (R2 zoning) with the intent of the original Plan of Subdivision.

OR

2. Refer the proposal of subdivision/severance to a review through the Planning process, where the changed nature in intent from the original plan may be considered by a broader spectrum of residents, or the neighbourhood can support a zone change process to R2 zoning, to maintain the intent of the original Plan of Subdivision. (Please note, that the actual 0.2 lot size is closer to an R2 minimum of 0.223 acres than the R3 minimum of 0.1 acre; might the current proposed severance be viewed as an aberrant R2, if this was supported by consensus of the neighbours as a desirable feature to protect the future of precedent for adjacent trees.)

Respectfully,



Judy-Anne Chapman, PhD
Coordinator for Green Belt
Neighbourhood Association

CC Dr and Mrs. W. Nurse (Applicant)
Zyg Janecki (Planner)
Residents within 200 feet of 400 Westwood Drive

Kitchener, Ontario.
November 10, 1999.

Janet L. Billet,
Secretary,
Committee of Adjustment,
Department of General Services and City Clerk,
City Hall, 2nd floor,
200 King Street West,
Kitchener, Ontario.

Re - Submission No.: B61/99
Applicant: Elizabeth and William Nurse

In your notification of November 5, 1999, you state that I am entitled to receive notice of any changes to the conditions of the Provisional Consent if I make a written request to be notified of changes to the conditions. Please accept this letter as such written notification. I am particularly concerned about any changes to condition 7. about the Tree Preservation/Enhancement Plan.

Sincerely,



Judy-Anne Chapman, PhD

cc Councillor Chris Weylie

conditions within one year of the date of giving notice of this decision

subsection 23 of Section 23 of the Planning Act, the

throughout

TAB 3

Mark L. Dorfman, Planner Inc.

219 - 50 Westmount Road North, Waterloo, ON, N2L 2R5
Telephone: 519-888-6570 ~ Facsimilie: 519-888-6382 ~ E-mail: dmark@mldpi.ca

October 15, 2021

**Mr. John S. Doherty,
Gowling WLG (Canada) LLP,
345 King Street West,
Suite 600,
KITCHENER ON N2G 1B8**

Dear Mr. Doherty:

**Subject: City of Kitchener
Zoning Bylaw Amendment Application
ZBZ21/012/W/ES
400 Westwood Drive**

**Planning Opinion provided to:
Goodwin/Jaslinskas
Sahinovic**

In response to your request, I provide my Planning Opinion regarding the subject application to amend the City of Kitchener Zoning Bylaw 85-1. The Application was made by Douglas W. Stewart (IBI Group) on behalf of the Subject Property owner, Zakia Kardumovic.

In preparing this Planning Opinion, I have reviewed the following documents:

Application For Zoning By-Law Amendment - August 5, 2021

Planning Justification Report - August 5, 2021

City of Kitchener Official Plan

City of Kitchener Zoning Bylaw 85-1

Registry information.

As well, I reviewed aerial photography of the subject neighborhood and undertook a drive-by of the Subject Property and the neighborhood.

My planning opinion is based on the information at hand. My focus is on the Kitchener Official Plan and the Kitchener Zoning Bylaw. In my opinion, it is important to recognize that the municipal public interest is just as important as the provincial interest at this time.



Neighbouring Properties

The interested neighbors own the following properties in relation to the Subject Property:

located adjacent to the north at the corner of Westwood
located adjacent to the south

Proposed Development

The Subject Property is legally described as Part of Lots 1 and 2, Plan 1536; Part 1, Reference Plan 12471.

The Subject Property is located on the east side of Westwood Drive, south of Glasgow Street.

According to the Application, the Subject Property has a land area of 3,854 square metres (0.385 ha), with road frontage of 50.0 metres and a depth of 78.1 metres.

The Applicant proposes to create four (4) separate lots fronting on Westwood Drive, for residential purposes and to sever and convey the rear 0.179 hectare as a lot extension to 787 Glasgow Street. (The Planning Justification Report erred in stating the conveyance is to 787 Westwood).

The Application is to amend the Zoning Bylaw for the four proposed lots from "Residential Two R-2" to "Residential Four R-4 - Special" and to amend the proposed lot extension from "Residential Two R-2" to "Open Space P-2".

The future proposed severed lots are intended to have the following areas and frontages:

- Lot 1: 627.7 m² area with 15.3 metres frontage
- Lot 2: 477.3 m² area with 11.6 metres frontage
- Lot 3: 477.3 m² area with 11.6 metres frontage
- Lot 4: 470.1 m² area with 11.5 metres frontage

The Applicant proposes to vary the "R-4" zoning for Lot 1 by establishing a Minimum Rear Yard of 23.8 metres instead of 7.5 metres and for Lots 2, 3 and 4, a Minimum Rear Yard of 16.5 metres instead of 7.5 metres.

Neighboring Properties

Both of the properties of concern are zoned as "Residential Two R-2".

These two properties and the Subject Property were originally established in the late 1970s and were later reconfigured by consents. The area of the original subdivision plan consisted of four lots and now, within the same land area, there are five lots (Two on Glasgow, two on Westwood, and one on Dayman). The Applicant intends to further subdivide the original plan area and establish a total of eight lots Two on Glasgow, five on Westwood, and one on Dayman.



Planning Analysis

1. The Subject Property is designated as "Low Rise Residential" on Map 3 Land Use in the Kitchener Official Plan. The neighboring properties are located in the same designation. Section 15.D.3.8 of the Official Plan provides that "a full range of low density housing types" are accommodated in this Designation.
2. The Policy provides that the "maximum *net residential density*... will be 30 units per hectare."
3. The Applicant's Planner states on page 24 of the Planning Justification Report, that the net residential density within the "Low Rise Residential" Designation in the Kitchener Official Plan is 30 units per hectare. The Planner concludes that the Subject Property can be developed for 11 Lots. I disagree. This policy statement is correct, but the application of this density is misleading. This policy should not be applied to individual lots that are the subject of development applications. This net residential density must be applied to all lands within the area including half of the road rights-of-way.
4. I undertook a preliminary calculation of 11 existing Lots in the "R-2" Zone and in the "Low Rise Residential" Designation in the local area. The resulting net residential density is in the order of 2.24 units per hectare. If the townhouses located on the west side of Westwood and the smaller lots further south on Westwood are included in my calculation, the density is higher, but not close to reaching 30 uph.
5. The Applicant is applying for "R-4" zoning on the proposed 2,069 square metre retained lot. Without variances, this retained lot could be divided into 5 lots (2,069/235) with minimum lot frontage of 9 metres in "R-4". In "R-4", the development would consist of 5 single detached dwellings or 6 duplex lots, as-of-right.
6. I conclude that the expectation of 5 single-detached lots in this location is inappropriate in the context of the existing lot pattern in the Glasgow area.
7. An alternative form of infill development could zone the retained lot as "R-3". In this zone, 3 single detached dwelling Lots with a minimum lot width of 13.7 metres could be developed.
8. Historically, the existing "R-2" lots on Glasgow and Westwood are part of the same community. As-of-right, the Subject Property can be divided into two single-detached dwelling lots under the "R-2" Zone.
9. In my opinion, the intensification of the Subject Property (hypothetically from 2 to 3 lots) is good planning only if it zoned as "R-3". This is a reasonable transition from the "R-2" lots to the "R-4" lots located further south on Westwood.



10. In my analysis, I have not assessed physical impacts resulting from the intensification of the Subject Property. I am aware of the immediate concerns raised by the neighbours. If the City of Kitchener is considering the zoning amendment, I recommend that prior to any conclusion by staff and Council, the issues regarding lot grading and storm water management, including any changes in retaining walls, must be first understood and mitigated. As well, the historic woodland that has been fragmented by development needs to be carefully assessed in advance. The trees and the roots of trees on the Subject Property and on the neighboring properties are integral to the aesthetic, visual amenity in the neighborhood. Tree saving and enhancement of species also need to be firmly established prior to any consideration of the zoning application.
11. I caution the City of Kitchener to not amend the Zoning Bylaw, then later deal with the above impacts as site plan issues, without consultation with the neighbors in the community.

I am pleased to provide this independent and objective opinion with the expectation that Kitchener staff and Council will carefully consider the community planning implications arising from the proposed development in this application.

Yours truly,



Mark L. Dorfman, F.C.I.P., R.P.P.



TAB 4

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

CITY OF KITCHENER

The Committee of Adjustment held an electronic meeting this date, commencing at 10:00 a.m.

Present: D. Cybalski - Chair
B. McColl
J. Meader
S. Hannah
M. Kidd

Officials: J. von Westerholt, Senior Planner
S. Ryder, Traffic Planning Analyst
G. Stevenson, Senior Planner
C. Dumart, Planner
S. Goldrup, Committee Administrator
D. Saunderson, Secretary-Treasurer

MINUTES

Moved by B. McColl
Seconded by J. Meader

That the regular minutes of the Committee of Adjustment meeting held March 16, 2021, as circulated to the members, be accepted.

Carried

UNFINISHED BUSINESS:

CONSENT APPLICATION:

- 1. **Submission No.:** B 2020-047
Applicant: Michael Krause
Property Location: 50 Brookside Crescent
Legal Description: Part Block O & Park Block 87, Plan 1334, being Parts 1 & 3 on Reference Plan 58R-20390

Appearances:

In Support: M. Krause
O. Scott

Contra: L. Geisel
C. Laderoute

Written Submissions: Neighbourhood Petition
C. Laderoute

The Committee was advised the applicant is requesting permission to sever a parcel of land on the westerly edge of the property (future municipal address 52-54 Brookside Crescent), having an approximate width of 16.2m, a depth of 33.5m and an area of 542.7 sq.m. The retained land will be irregular in shape having an approximate width of 35m, a depth of 43.5m and an area of 1523 sq.m. The severed lot is intended for a semi-detached dwelling.

The Committee considered Development Services Department report DSD-2021-23 dated March 5, 2021, recommending approval of this application, subject to the conditions outlined in the Report; as well as, Development Services Department report DSD-2021-55 dated April 12, 2021, which was a follow-up reported the requested from the deferral from the Committee's meeting on March 16, 2021.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated November 26, 2020, advising they have no objection to this application subject to the following condition:

1. Submission No.: B 2020-047 (Cont'd)

1. That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per new lot created.

Michael Krause and Owen Scott were in attendance in support of the subject application and staff recommendation.

Christine Laderoute and Luanne Geisel were in attendance in opposition to the subject application. C. Laderoute expressed concerns with the age of the smokehouse/shed noting she had provided newspaper articles for the Committee's consideration that help to corroborate the construction date, which is beyond what was identified in the Heritage Impact Assessment provided with the application. C. Laderoute stated additional concerns related to: the proposed height and setbacks of the semi-detached dwelling; concerns for on-street parking; and, the location of the fence between the proposed severed parcel and the property municipally addressed as 58 Brookside Crescent.

M. Krause stated he has tried to respond to the concerns of the neighbourhood, noting ultimately, he would rely on City approvals for what would be constructed on the proposed lot. M. Krause indicated through this process there have been false statements made about the dwelling constructed to the right of the subject property, noting when he completed that severance he sent a letter to the adjacent neighbours advising of this intentions related to that development. M. Krause noted the written submission provided by the neighbours related to the subject application include statements about that development that are factually inaccurate. M. Krause further advised he has done significant work since the March Committee of Adjustment to meeting to address the concerns of the neighbourhood and has proposed several changes including increasing the front yard setback of the proposed dwelling, as well as decreasing the size of the proposed lots. In response to comments related to the garden suite which is intended to be retained on the subject property, M. Krause stated in his opinion that building should have no relevance to the requested application.

G. Stevenson advised Planning staff held an electronic meeting with the neighbourhood as soon as elevation drawings were received. Discussions took place related to possible solutions or changes that may be required to address the concerns of the neighbourhood. Although all of the changes proposed by the applicant may not address the full limit of concerns raised, the applicant has proposed reducing the size of the lots, as well as the footprint of the building, and increasing the front yard setback more inline with the property municipally addressed as 58 Brookside Crescent. G. Stevenson further advised the building has also been staggered at the request of the City's Urban Design staff and reversed in orientation so the porch rather than the garage is adjacent to 58 Brookside Crescent.

In response to questions, G. Stevenson advised the applicant has expressed the desire to maintain the shed currently located at the rear of the proposed severed lot as Council at its most recent Planning & Strategic Initiatives Committee considered a report that would permit the use of Tiny Homes within the City's Zoning By-law. The applicant wishes to maintain the shed/garden suite as a small dwelling unit on the subject property.

Questions were raised regarding the condition outlined in the staff report related to the applicant requiring approval of the elevation drawings but he Director of Planning and whether it should be updated to include reference to elevation drawings circulated to the Committee this date. G. Stevenson stated if the Committee would like to provide additional direction related to the elevation drawings that condition could be amended, but ultimately the condition clearance should still be to the satisfaction of the Director of Planning as they are the only ones with the authority to provide that approval.

B. McColl advised he had done a site visit of the property and expressed concerns with the development that was constructed to the right of the subject property through the previous severance application and its compatibility with the neighbourhood. B. McColl noted the elevation drawings submitted for the new lot do seem more consistent with the neighbourhood. B. McColl indicated he was in support of the revised front yard setback and the proposed building being more staggered in relation to the adjacent property. B. McColl further advised he would have preferred to see additional information related to the shed and how it was constructed to possibly confirm the date its construction.

1. Submission No.: B 2020-047 (Cont'd)

In response to questions, L. Geisel advised she is still not satisfied with the subject application, regardless of the proposed changes suggested by the applicant.

In response to questions, G. Stevenson advised the setback of the proposed semi-detached dwelling would have a setback of 7.8m whereas the property municipally addressed as 58 Brookside Crescent currently has a setback of 7.5m which determined using the City's GIS mapping software.

M. Krause stated comments were made about the materials used to construct the shed, noting it has a newer cedar roof, parging, wiring, newer garage door and stonework which similar but not consistent with the original home. M. Krause stated he received a letter from C. Laderoute prior to the meeting this date and the letter suggests a personal and emotional attachment with a previous property owner and specific attributes of the property. M. Krause stated in his opinion the reasons that have been expressed by the neighbourhood should not prevent this project from moving forward.

J. Meader stated the comments made about the desire to retain the coach house at the rear of the proposed severed lot not being relevant, in her opinion is inaccurate. The proposed severance creates an irregular shaped lot, noting when the Committee considers a severance application the Planning Act has criteria outlined in Section 51 (24), which states "the shape and dimensions of the new lots, is one of the criteria that must be considered when approving a severance". J. Meader commented the purpose for maintaining that portion of the property would be to maintain additional living space in the rear yard of people's amenity space. J. Meader noted although staff are supportive of that proposed lots, she did still have some concern with the proposed lot fabrics.

S. Hannah stated he is in opposition with the subject application. S. Hannah noted the proposed lot severance is for the creation of one lot, theoretically someone could construct a single detached dwelling rather than the proposed semis. S. Hannah stated if the Committee approves the application the recommendation may need to be amended to approve the proposed depth of 31.69m which was included in the elevation drawings submitted to the Committee this date. S. Hannah stated it would be his preference to see a severance application that was the full depth of the property rather than retaining the coach house in the rear of the severance.

B. McColl advised he was in agreement with the comments from the previous Committee members, if the proposed lots included the whole depth of the property and the proposed guest cottage was removed then the footprint of the project could be setback approximately 12m from the property line. B. McColl indicated he was in agreement with staff and the proposed setback with 54 Brookside Crescent is almost inline with 58 Brookside Crescent. B. McColl stated he could support the application if the guest cottage was removed and the severance went the full depth of the property. With higher density targets, he would be in support of subject application.

M. Kidd stated the existing dwelling is aesthetically pleasing that should be retained. M. Kidd indicated he was in support of extending the use of the property and as long as the proposed dwelling was consistent in with the neighbourhood or even the farmhouse, there is balance that could be achieved.

D. Cybalski stated the Committee must take into consideration of lot fabric and how the proposed lots would suit with the adjacent properties. D. Cybalski generally when new lots are created the severance would not leave a remanent portion in the rear, that is not necessarily good planning.

In response to questions, G. Stevenson advised the R4 Zone permits a front yard setback of 4.5m for a porch and 6m for proposed garage with the required parking. G. Stevenson indicated the R4 Zoning does permit a semi-detached dwellings and if the Committee did consider approving the application the decision would need to be amended to reflect a depth of 31.69m to have greater separation between the dwelling.

The Chair noted the only matter before the Committee this date is a severance application, stating the applicant has proposed concessions to address the concerns of the neighbourhood noting the permitted Zoning would allow him to construct closer to the lot line than what is being proposed.

1. Submission No.: B 2020-047 (Cont'd)

S. Hannah noted he was leaning towards requesting a deferral, noting concerns with amending the Heritage Designation By-law to remove the severed property from the designation. S. Hannah further advised currently he was unable to support the size and shape of the lot as proposed, indicating the proposed elevations do not adequately address his concerns. S. Hannah stated he was hoping to see a setback on the left adjacent to 58 Brookside Crescent of 7.8m and 10.96m adjacent to the heritage dwelling. S. Hannah further advised he would prefer to see a severance going the entire depth of the property.

J. Meader stated if the Committee was considering a deferral of the application, from the comments previously stated from the Committee members, it would permit the applicant an opportunity to reconsider the size and shape of the proposed lot. From the comments expressed from the applicant it appears he is unwilling to amend his application to include the back portion of the property containing the garden suite.

S. Hannah stated he is not able to support this application as proposed.

B. McColl questioned whether the Committee was interested in a further deferral to review the front yard setback. S. Hannah indicated he was only willing to defer the application if the applicant was willing to revisit the size of the proposed severance.

M. Krause stated he was disappointed with some of the comments being expressed. M. Krause advised the garden suite which is proposed to be maintained has been occupied for 6-years. The unit has adequate parking on the subject property and the use of the dwelling will be permitted pending approval of the Zoning By-law amendment which addresses tiny homes. M. Krause stated he was not willing to consider the removal of the garden suite. M. Krause indicated he was reluctant to accept a deferral, but a premature decision of the Committee would be made if staff required additional information on the use of the garden suite.

B. McColl stated it appears there is some confusion on the current situation related to the garden suite at the rear of the proposed severance, one plan noting building as a shed, another plan noting it as a garden suite. B. McColl stated the applicant has accepted the option for a deferral for additional information to be provided.

B. McColl brought forward a motion to defer the subject application to get more clarification on the heritage aspect of the entire property and whether the front yard setbacks of the proposed dwelling could be more sympathetic to the adjacent properties.

G. Stevenson requested clarification on the scope of the deferral, noting specifically related to additional information related to the heritage of the property, a Heritage Impact Assessment was provided and considered by Heritage Kitchener in support of the application.

B. McColl stated he was referencing S. Hannah's comments related to the heritage of the entire property. B. McColl questioned whether modification would be required to update the heritage designation. G. Stevenson noted the condition would give the City the authority to amend the designation by-law to remove reference to the severed property within the designation. G. Stevenson stated if the committee was considering a deferral staff would require the full nature of the deferral and what additional information the Committee may require in advance of the May meeting. In response to further questions, G. Stevenson advised the heritage designation by-law addresses the home and the architectural style of the dwelling, it does not reference the shed or garage of having historical significance.

In response to questions, B. McColl indicated the garage, smokehouse and shed are of no historical value and that they were built to suit the style of the dwelling and they have not been substantiated to be heritage items. In regard to the comments from G. Stevenson related to the heritage designation B. McColl removed the request for additional heritage information from his motion to defer.

S. Hannah indicated he would like to see a revised site plan that would see setbacks that were more sympathetic to both 58 Brookside Crescent and 50 Brookside Crescent, as well as information related to the use of the garden shed.

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

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CITY OF KITCHENER

1. **Submission No.:** B 2020-047 (Cont'd)

B. McColl brought forward a motion to defer the subject application to get additional clarification on the garden suite and its current uses; as well as the front yard setback and whether they can be more sympathetic with the adjacent properties municipally addressed as 58 and 50 Brookside Crescent.

**Moved by B. McColl
Seconded by M. Kidd**

That the application of MICHAEL KRAUSE requesting permission to sever a parcel of land on the westerly edge of the property (future municipal address 52-54 Brookside Crescent), having an approximate width of 16.2m, a depth of 33.5m and an area of 542.7 sq.m. **BE DEFERRED to the May 18, 2021 Committee of Adjustment meeting** to get additional clarification on the garden suite and its current uses; as well as the front yard setback and whether they can be more sympathetic with the adjacent properties municipally addressed as 58 and 50 Brookside Crescent, on Part Block O & Park Block 87, Plan 1334, being Parts 1 to 3 on Reference Plan 58R-20390, 50 Brookside Crescent, Kitchener, Ontario.

Carried

NEW BUSINESS:

MINOR VARIANCE APPLICATION:

- 1. **Submission No.:** A 2021-031
- Applicants:** Varinder Purewal and Rajvinder (Bobbie) Chatha
- Property Location:** 660 Avondale Avenue
- Legal Description:** Lot 16 & Part Lot 17, Plan 349

Appearances:

In Support: J. O'Malley
V. Purewal
R. Chatha

Contra: D. & M. Reid E. Plach & R. Wallwork
J. Robinson T. Glover
B. Trotter F. Millard

Written Submissions: A. Stahlke G. Smith
D. & M. Reid R. Donaldson
J. Finney J. Robinson
J. McCormick M. Cadotte & E. McCarron
C. Boehmer S. Munroe
T. Glover B. Trotter
F. Millard C. Trotter
E. Plach & R. Wallwork

The Committee was advised the applicant is requesting permission to construct a single detached dwelling having a rear yard setback 4.7m rather than the required 7.5m. The existing dwelling will be demolished.

The Committee considered Development Services Department report DSD-2021-57 dated April 13, 2021 recommending deferral of the subject application to provide an opportunity for the owner to prepare and submit a satisfactory Tree Preservation / Enhancement Plan, in advance of a decision by the Committee of Adjustment.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

1. Submission No.: A 2021-031 (Cont'd)

Moved by B. McColl
 Seconded by S. Hannah

That the application of Varinder Purewal and Rashvinder Chatha requesting permission to construct a single detached dwelling having a rear yard setback 4.7m rather than the required 7.5m **BE DEFERRED to the May 18, 2021 Committee of Adjustment meeting** to allow additional time for the applicant to opportunity for the owner to prepare and submit a satisfactory Tree Preservation / Enhancement Plan, on Lot 16 & Part Lot 17, Plan 349, 660 Avondale Avenue, Kitchener Ontario.

Carried

UNFINISHED BUSINESS (CONT'D):

COMBINED APPLICATIONS:

1. Submission No.: B 2021-011 and A 2021-033
Applicant: Grand River Conservation Authority
Property Location: Fairway Road and Woolner Trail
Legal Description: Part of Lot 9 and 14, Registered Plan 591

Appearances:

In Support: K. Muir
 J. Passey

Contra: None

Written Submissions: D. Woolner
 L. Kotseff

The Committee was advised the applicant is requesting permission to sever a parcel of land that is approximately 6.92 hectares (17.1 acres) in size.

The Committee considered Development Services Department report DSD-2021-53 dated April 11, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated March 18, 2021, advising they have no objection to application B 2021-014 subject to the following conditions:

1. The owner/applicant is required to enter into an agreement with the Regional Municipality of Waterloo to complete a detailed environmental/stationary noise study prior to Site Plan approval for the severed lands and, if necessary, enter into a further supplementary agreement to secure implementation of the recommendations of the noise study.
2. Notwithstanding Regional Condition 1 above, that prior to final approval, the owner/applicant enter into an agreement with the Region of Waterloo for the severed lands, to include the following warning clause on all offers to purchase and/or rental agreements:
 - i. "Prospective purchasers and tenants are advised that the entire property comprising the severed lands are located within or in close proximity to one of the flight paths leading into and out of the Region of Waterloo International Airport and that directional lighting along this flight path may cause concern to some individuals".
3. That prior to final approval, the owner/applicant removes any easements no longer required on the severed and retained lands, to the satisfaction of the Region of Waterloo.

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

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CITY OF KITCHENER

1. Submission No.: B 2021-011 and A 2021-033 (Cont'd)

4. That prior to final approval, the owner/applicant enter into an agreement with the Region of Waterloo, to complete a Salt Management Plan for the severed lands prior to Site Plan approval.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with applications A 2021-033.

The Committee considered the report from the Grand River Conservation Authority, dated March 1, 2021 advising they have no concerns with the subject application.

The Chair noted a clerical error in the staff report, stating the approval should remove the request for a deferral from the Committee's decision this date. It was further noted the Comments from the Region of Waterloo and Grand River Conservation Authority (GRCA) should be included in the Committee's decision this date.

Kevin Muir and Jennifer Passy were in attendance in support of the subject application and staff recommendation.

Submission No.: B 2021-011

**Moved by J. Meader
Seconded by S. Hannah**

That the application of GRAND RIVER CONSERVATION AUTHORITY requesting permission to sever a vacant irregular shaped parcel at the corner of Fairway Road North and Old Zeller Drive having a width on Old Zeller Drive of approximately 159.862m and an area of 6.92 hectares, on Part of Lot 9 and 14, Registered Plan 591, Fairway Road and Woolner Trail, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall provide 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 sized 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.
2. The owner shall to enter into an agreement with the Regional Municipality of Waterloo to complete a detailed environmental/stationary noise study prior to Site Plan approval for the severed lands and, if necessary, enter into a further supplementary agreement to secure implementation of the recommendations of the noise study.
3. The owner shall enter into an agreement with the Region of Waterloo for the severed lands, to include the following warning clause on all offers to purchase and/or rental agreements:

"Prospective purchasers and tenants are advised that the entire property comprising the severed lands are located within or in close proximity to one of the flight paths leading into and out of the Region of Waterloo International Airport and that directional lighting along this flight path may cause concern to some individuals".
4. That the owner shall remove any easements no longer required on the severed and retained lands, to the satisfaction of the Region of Waterloo.
5. That the owner shall enter into an agreement with the Region of Waterloo, to complete a Salt Management Plan for the severed lands prior to Site Plan approval.
6. That the owner shall receive final approval of Minor Variance application A2021-033.
7. That the owner shall make satisfactory financial arrangements with the Grand River Conservation Authority (GRCA) for the application review fee.

It is the opinion of this Committee that:

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CITY OF KITCHENER

1. Submission No.: B 2021-011 and A 2021-033 (Cont'd)

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

Submission No.: A 2021-033

Moved by J. Meader
Seconded by S. Hannah

That the application of GRAND RIVER CONSERVATION AUTHORITY requesting permission for the severed land identified in Consent Application B 2021-011 intended for use by the Waterloo Catholic District School board to have a lot width of 150m rather than the required 300m; and, an area of 6.9 hectares rather than the required 40 hectares, on Part of Lot 9 and 14, Registered Plan 591, Fairway Road and Woolner Trail (Vacant Land), Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

NEW BUSINESS (CONT'D):

MINOR VARIANCE APPLICATIONS:

1. **Submission No.:** A 2021-019
Applicant: Milestone Developments Inc.
Property Location: 30 Waterbow Trail
Legal Description: Lot 59, Plan 58M-605

Appearances:

In Support: P. Haramis

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1. **Submission No.:** A 2021-019 (Cont'd)

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to construct a single detached dwelling having a southerly side yard abutting Valleybrook Drive of 4.1m rather than the required 4.5m; a southerly side yard abutting Valleybrook Drive for a non-enclosed porch of 2.74m rather than the required 3m; and, a driveway setback of 7.6m from the intersection of Waterbow Trail and Valleybrook Drive rather than the required 9m.

The Committee considered Development Services Department report DSD-2021-33 dated March 5, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with the subject application.

Moved by B. McColl
Seconded by Mike Kidd

That the application of MILESTONE DEVELOPMENTS INC requesting permission to construct a single detached dwelling having a southerly side yard abutting Valleybrook Drive of 4.1m rather than the required 4.5m; a southerly side yard abutting Valleybrook Drive for a non-enclosed porch of 2.74m rather than the required 3m; and, a driveway setback of 7.6m from the intersection of Waterbow Trail and Valleybrook Drive rather than the required 9m, on Lot 59, Plan 58M-605, 30 Waterbow Trail, Kitchener, Ontario, **BE APPROVED**.

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

2. **Submission No.:** A 2021-026
Applicants: Katrina Cove-Shannon
Property Location: 11 Whitney Place
Legal Description: Lot 260, Subdivision of Lot 17, German Company Tract

Appearances:

In Support: T. Bauman

Contra: None

Written Submissions: None

The Committee was advised the applicants are requesting permission to reconstruct the front porch on an existing single detached dwelling having an easterly side yard setback of 0.78m rather than the required 1.2m; a front porch setback of 2.64m rather than the required 4.7m; and, a 2.64m encroachment into the Driveway Visibility Triangle (DVT) whereas the By-law does not permit encroachments into the 4.5m DVT.

2. **Submission No.:** A 2021-026 (Cont'd)

The Committee considered Development Services Department report DSD-2021-056 dated April 13, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Moved by S. Hannah
Seconded by J. Meader

That the application of KATRINA COVE-SHANNON requesting permission to reconstruct the front porch on an existing single detached dwelling having an easterly side yard setback of 0.78m rather than the required 1.2m; a front yard setback of 2.64m rather than the required 4.7m; and, for the proposed porch to encroach into the Driveway Visibility Triangle (DVT) whereas the By-law does not permit encroachments into the 4.5m DVT, on Lot 260, Subdivision of Lot 17, German Company Tract, 11 Whitney Place, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

3. **Submission No.:** A 2021-027
Applicants: Milos Posavljak
Property Location: 573 Guelph Street
Legal Description: Lot 17, Plan 749

Appearances:

In Support: I. Cekic
M. Posavljak

Contra: None

Written Submissions: None

The Committee was advised the applicants are requesting permission to construct a semi-detached dwelling on a lot having a width of 14.96m rather than the required 15m; and, an easterly side yard setback of 0.94m and a westerly side yard setback of 0.91m rather than the required 1.2m.

The Committee considered Development Services Department report DSD-2021-19 dated April 9, 2021 recommending approval of the subject application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Ivana Cekic and Milos Posavljak were in attendance in support of the subject application. In response to questions I. Cekic indicated she was not aware this date of that windows would not be permitted in the side façade of the dwelling. S. Hannah noted if windows are preferred in the side yard the Building Code will require a side yard setback of 1.2m.

3. **Submission No.:** A 2021-027 (Cont'd)

Moved by J. Meader
Seconded by B. McColl

That the application of MILOS POSAVLJAK requesting permission to construct a semi-detached dwelling on a lot having a width of 14.96m rather than the required 15m; and, an easterly side yard setback of 0.94m and a westerly side yard setback of 0.91m rather than the required 1.2m, on Lot 17, Plan 749, 573 Guelph Street, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

4. **Submission No.:** A 2021-028
Applicants: IIsedore Kautsky
Property Location: 11 Springdale Drive
Legal Description: Lot 5, Plan 1129

Appearances:

In Support: I. Kautsky
N. Kautsky

Contra: None.

Written Submissions: None.

The Committee was advised the applicants are requesting permission to have a home office in the basement of an existing single detached dwelling having one off-site employee whereas the By-law does not permit off-site employees; and, to 2 separately accessed off-street parking spaces rather than the required 3 separately accessed off-street parking spaces.

The Committee considered Development Services Department report DSD-2021-59 dated April 12, 2021 recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

IIsedore Kautsky and Nadine Kautsky were in attendance in support of the subject application. I. Kautsky provided an overview of the subject application, stating the employee that attends her home is her daughter who lives on the same street and walks to the subject property.

Questions were raised regarding the width of the driveway, J. von Westerholt noted the applicant would prefer not to widen the driveway, stating he need for the variance is to allow the reduction in one required parking space. The applicant would have required 3 off-street parking space and the property can only accommodate 2 off-street spaces.

4. **Submission No.:** A 2021-028 (Cont'd)

S. Hannah suggested and it was agreed that the deadline outlined in Condition 2 of the staff report should be June 1, 2022 rather than June 1, 2021 to allow additional time for the applicant to obtain their occupancy certificate.

Moved by S. Hannah
Seconded by B. McColl

That the application of ILSEDORE KAUTSKY requesting permission to have a home business (office for online sales) having one employee in an existing single detached dwelling to have 2 separately accessed off-street parking spaces rather than the required 3 separate off-street parking spaces, on Lot 5, Plan 1129, 11 Springdale Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. The owner shall obtain a Zoning (Occupancy) Certificate from the Planning Division.
2. That condition 1 above be completed by June 1, 2022. Any request for a time extension must be approved in writing by the Manager of Development Review (or designate) prior to completion date set out in this decision. Failure to complete the conditions will result in this approval becoming null and void.

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

5. **Submission No.:** A 2021-029
Applicant: Chris Coles
Property Location: 20 Munroe Street
Legal Description: Part Lot 19, Registered Plan 861

Appearances:

In Support: C. Coles

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to convert an existing single detached dwelling into a duplex having the required off-street parking located 1m from the property line rather than the required 6m.

The Committee considered Development Services Department report DSD-2021-44 dated April 9, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Chris Coles was in attendance in support of the application.

5. **Submission No.:** A 2021-029 (Cont'd)

In response to questions, J. von Westerholt advised if the applicant is required to widen the driveway to accommodate the conversion of the garage, it would not necessarily necessitate the requirement to cut the curb. D. Seller stated if and when a property owner requests a driveway widening staff would review whether a curb cut was required and whether it would impact any boulevard trees, or street furniture etc.

S. Hannah brought a motion forward to approve the subject application, including a condition that the owner shall widen the driveway to accommodate 2-off street parking spaces to the satisfaction of the Director of Planning prior to the issuance of a building permit.

Moved by S. Hannah
Seconded by B. McColl

That the application of CHRISTOPHER NORMAN COLES requesting permission to convert an existing single detached dwelling into a duplex having the required off-street parking located 1m from the property line rather than the required 6m, on Part Lot 19, Registered Plan 861, 20 Munroe Street, Kitchener, Ontario, **BE APPROVED**, subject to the following condition:

1. That the owner shall widen the driveway to accommodate 2-off street parking spaces to the satisfaction of the Director of Planning prior to the issuance of a building permit.

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

6. **Submission No.:** A 2021-030
Applicants: 2441912 Ontario Inc.
Property Location: 80 Courtland Avenue East
Legal Description: Lot 191, Subdivision of Lot 17, German Company Tract

Appearances:

In Support: C. Lusty
 A. Sinclair

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to convert the existing office building into a health office having a parking rate of 1 off-street parking space per 26 sq.m. of Gross Floor Area (GFA) rather than the required 1 off-street parking space per 15 sq.m. GFA.

The Committee considered Development Services Department report DSD-2021-45 dated April 9, 2021 recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

6. **Submission No.:** A 2021-030 (Cont'd)

Andrea Sinclair and Chris Lusty were in attendance in support of the subject application. A. Sinclair noting following a discussion and confirmation with City staff she requested Condition 1 of the staff recommendation be amended to note the requirement of a Stamp Plan B Site Plan approval, noting the wording could suggest full Site Plan approval being required.

J. von Westerholt indicated if the applicant has clarified that requirement, she indicated she had no concerns with amending the condition to specify Stamp Plan B Site Plan approval.

The Committee agreed to amend Condition 1 of the staff recommendation to indicate the requirement of a Stamp Plan B Site Plan approval.

Moved by B. McColl
Seconded by S. Hannah

That the application of 2441912 ONTARIO INC requesting permission to convert the existing office building into a health office having a parking rate of 1 off-street parking space per 26 sq.m. of Gross Floor Area (GFA) rather than the required 1 off-street parking space per 15 sq.m. GFA, on Lot 191, Subdivision of Lot 17, German Company Tract, 80 Courtland Avenue East, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain Stamp Plan B Site plan approval to the satisfaction of the Manager of Site Development and Customer Service.
2. That the owner shall obtain a Zoning (Occupancy) Certificate from the Planning Division to establish the Health Office/Clinic use on the property.
3. That the owner shall complete all conditions prior to June 1st, 2022. Any request for a time extension must be approved in writing by the Manager of Development Review (or designate), prior to the completion date set out in this decision. Failure to fulfill these conditions, will result in this approval becoming null and void.

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

M. Kidd left the meeting at this time.

7. **Submission No.:** A 2021-032
Applicants: Stephanie Catcher and George Chambers
Property Location: 81 Waterloo Street
Legal Description: Part Lot 382, Plan 378

Appearances:

In Support: S. Catcher

Contra: None

Written Submissions: None

7. **Submission No.:** A 2021-032 (Cont'd)

The Committee was advised the applicant is requesting permission to construct a roof over an existing deck in the rear yard of a single detached dwelling having a rear yard setback of 4m rather than the required 7.5m.

The Committee considered Development Services Department report DSD-2021-48 dated April 8, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Stephanie Catcher were in attendance in support of the subject application and staff recommendation. In response to questions, S. Catcher stated the proposed covered deck will be one storey in height but will be fully enclosed with screens and a lock for added security on the property.

It was suggested and agreed that the Committee's decision this date include that the approval is for a 1-storey covered porch.

**Moved by S. Hannah
Seconded by J. Meader**

That the application of GEORGE PATRICK CHAMBERS and STEPHANIE DIANA CATCHER requesting permission to construct a 1-storey covered deck in the rear yard of a single detached dwelling having a rear yard setback of 4m rather than the required 7.5m, on Part Lot 382, Plan 378, 81 Waterloo Street, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

CONSENT APPLICATIONS

1. **Submission No.:** B 2021-015
Applicants: Novacore (83 Elmsdale Drive) Inc,
Property Location: 83 Elmsdale Drive
Legal Description: Part Lots 3 & 4, Municipal Compiled Plan 1021, Part Lot 1, Municipal Compiled Plan 1022 and Part Lot 3 Municipal Compiled Plan 1026

Appearances:

In Support: T. Collins

Contra: None

Written Submissions: None

1. Submission No.: B 2021-015 (Cont'd)

The Committee was advised the applicant is requesting permission to grant three easements for sanitary services available along the Ottawa Street property frontage to facilitate development; Easement 1 on the plan submitted with the application being irregular in shape having a width of 5m, an overall length of 152.3m and an area of 761.3 s.m. in favour of Parcel C; Easement 2 on the plan submitted with the application having a width of 5m, a length of 5.5m and an area of 27.5 sq.m. in favour of Parcels C and D; and, Easement 3 having a width of 5m, a length of 161.1m and an area of 805.6 sq.m. in favour of Parcel D. The property was previously subject to Consent applications which created the parcels and established additional easements.

The Committee considered Development Services Department report DSD-2021-49 dated April 8, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 9, 2021 advising they have no concerns with this application.

Moved by S. Hannah
Seconded by B. McColl

That the application of NOVACORE (83 ELMSDALE DRIVE) INC. requesting permission to grant three easements for sanitary services available along the Ottawa Street property frontage to facilitate development; Easement 1 on the plan submitted with the application being irregular in shape having a width of 5m, an overall length of 152.3m and an area of 761.3 s.m. in favour of Parcel C; Easement 2 on the plan submitted with the application having a width of 5m, a length of 5.5m and an area of 27.5 sq.m. in favour of Parcels C and D; and, Easement 3 having a width of 5m, a length of 161.1m and an area of 805.6 sq.m. in favour of Parcel D, on Part Lots 3 & 4, Municipal Compiled Plan 1021, Part Lot 1, Municipal Compiled Plan 1022 and Part Lot 3 Municipal Compiled Plan 1026, 83 Elmsdale Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the Transfer Easement document required to create the Easement being approved herein shall include the following and shall be approved by the City Solicitor:
 - a. a clear and specific description of the purpose of the Easement 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).
 - b. a clause/statement/wording confirming that the Easement 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.
4. That the owner shall provide 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.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.

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1. **Submission No.:** B 2021-015 (Cont'd)

3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

2. **Submission No.:** B 2021-016
Applicants: Revalue Properties Inc.
Property Location: 83 Second Avenue
Legal Description: Part of Block "B", Registered Plan 254

Appearances:

In Support: B. Jokanovic

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m. The retained land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m. The existing dwelling will be demolished.

The Committee considered Development Services Department report DSD-21-052 dated April 9, 2021 recommending approval of this application, subject to the conditions outlined in the report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 9, 2021 advising they have no concerns with this 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 new lot created.
- 2) That prior to final approval, the owner/applicant enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a) The dwelling will be fitted with forced air-ducted heating system suitably sized and designed with provision for the installation of air conditioning in future, at the occupant's discretion.
 - b) That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
 - c) The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:

2. Submission No.: B 2021-016 (Cont'd)

- i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic Highway 7/8 may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP). This dwelling has been fitted with a forced air-ducted heating system and has been designed with the provision of adding central air conditioning at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)."*

Boban Jokanovic was in attendance in support of the subject application and staff recommendation.

The Chair requested the Regional Conditions be included in the Committees decision this date. It was further suggested and agreed that Condition 10 of the staff report be amended to reference the demolition of a single detached dwelling rather than "a portion of the detached dwelling".

Moved by B. McColl
Seconded by J. Meader

That the application of REVALUE PROPERTIES INC requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m. The retained land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m., on Part of Block "B", Registered Plan 254, 83 Second Avenue, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner shall pay to the City of Kitchener a cash-in-lieu contribution for park dedication on the severed parcel equal in the amount of \$3785.80.
4. That the owner shall make 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.
5. That the owner shall ensure 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 Division.
6. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
7. That the owner shall submit a complete Development and Reconstruction As-recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.

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2. Submission No.: B 2021-016 (Cont'd)

8. That the owner shall provide 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 shall 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 Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning and the Director of Operations, and where necessary, implemented prior to any grading, tree removal or the issuance of any building permits. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation (including street trees) to be preserved.
 - 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 Director of Planning and the Director of Parks and Cemeteries.
 - c) That the Owner ensures any boulevard trees identified by the City for retention are protected during construction to the satisfaction of the City's Director of Parks and Cemeteries and the City's Director of Planning. That prior to the issuance of any building permit, the Owner makes satisfactory arrangements financial or otherwise for any relocation/removal of any existing boulevard trees adjacent to the subject property to the satisfaction of the City's Parks and Cemeteries.
10. That the owner shall obtain a demolition permit for the existing single detached dwelling proposed to be demolished, to the satisfaction of the Chief Building Official.
11. That the owner shall enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a) The dwelling will be fitted with forced air-ducted heating system suitably sized and designed with provision for the installation of air conditioning in future, at the occupant's discretion.
 - b) That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
 - c) The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
 - i. "The purchasers / tenants are advised that sound levels due to increasing road traffic Highway 7/8 may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP). This dwelling has been fitted with a forced air-ducted heating system and has been designed with the provision of adding central air conditioning at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)."
12. That the owner shall submit the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

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2. Submission No.: B 2021-016 (Cont'd)

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

3. **Submission No.:** B 2021-017
Applicant: 2611601 Ontario Inc.
Property Location: 82 Pattandon Avenue
Legal Description: Part Lots 14 & 15, Registered Plan 384

Appearances:

- | | | |
|-------------|---------------|-------------|
| In Support: | J. Hale | |
| Contra: | J. Lazarte | J. Steckley |
| | C. & G. Rito | Z. Harvey |
| | D. Hunsperger | |

Written Submissions: B. Pejanovic

The Committee was advised the applicant is requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m. The retained land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m. The existing dwelling will be demolished.

The Committee considered Development Services Department report DSD-2021-47 dated April 9, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated April 9, 2021, advising they have no objection to this 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 new lot created.
- 2) That prior to final approval, the owner/applicant enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:

3. Submission No.: B 2021-017 (Cont'd)

- a. The dwelling will be fitted with forced air-ducted heating system suitably sized and designed with provision for the installation of air conditioning in future, at the occupant's discretion.
- b. The exterior walls (eastern and northern walls) facing the railway will be constructed with brick veneer (EW5) or acoustical equivalent.
- c. That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
- d. The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
 - i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic on Ottawa Street North, local municipal streets, and rail noise from CN Railway may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)".*
 - ii. *"This unit has supplied with central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Region of Waterloo and the Ministry of the Environment, Conservation and Parks."*
 - iii. *"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."*

Janelle Hale was in attendance in support of the application and the staff recommendation.

Julieta Lazarte was in attendance in opposition to the application, expressing concerns that the property was going to be developed with a 4-unit multi-residential dwelling. In response to the comments, J. Hale advised the application is proposing to create one new lot for the construction of semi-detached dwellings.

Jeff Steckley addressed the Committee in opposition to the application. J. Steckley advised although the R5 Zone permits semi-detaching dwellings, this would be the first one constructed on the street and it would set a precedence for future development of this nature. J. Steckley noted they are located within a Residential Intensification in Established Neighbourhoods Study (RIENS) area and questioned how the study would protect them from development, indicating the proposed severance will significantly alter the street.

In response to questions, J. von Westerholt advised the R5 Zoning does permit semi-detached dwellings as a permitted use. The proposed lots fully conform with the Zoning by-laws and the proposed setbacks of the new dwelling would be inline with the other homes on the street. J. Steckley questioned whether there was a threshold ratio for applications that would be considered in the future. The Chair noted if the Zoning permits the use, market demand would likely dictate future development on the street.

Christine & George Rito were in attendance in opposition of the application. C. Rito noted she concurred with the comments from J. Steckley. C. Rito questioned whether the proposed garages would be required to consistent with the existing streetscape.

3. Submission No.: B 2021-017 (Cont'd)

J. von Westerholt stated the property is located within a RIENS neighbourhood, stating the proposed garage would be required to be located behind the principle facade. In response to questions, J. Hale indicated they have not yet started the design process for the proposed semi-detached dwelling, commenting they would be opening to listening to some suggestions of the neighbourhood.

Zoe Harvey addressed the Committee in opposition to the application, expressing concerns with: safety of the neighbourhood; the possible eviction of the tenants moving in May 2021; and, the noise from the construction. Z. Harvey expressed further concerns with the timing of the meeting, noting it was not accessible to all residents.

Deb Hunsperger was in attendance in opposition to the application. D. Hunsperger expressed concerns with: on-street parking, safety specifically related to emergency response times and traffic; as well as, the possible loss of the neighbourhood family appeal.

In response to questions, D. Seller this is the first he had received a complaint related to safety for the subject the street. D. Seller indicated on-street parking is permitted on both sides of the street, noting specifically with snow events it was typical that a street would narrow in size due to the snow. D. Seller indicated he could not speak to the accessibility of the street related to emergency response. D. Seller further advised the proposed dwelling would be required to provide off-street parking spaces for the units, likely those spaces would be located within a garage.

J. Meader stated all the concerns received this date from the area residents do not directly relate to the subject application, noting concerns for tenants or noise are out the Committee's authority. J. Meader indicated the property owner could demolish and reconstruct the dwelling and would not require any approvals from the Committee. Comments related to traffic and parking are existing conditions that would not be exacerbated by one additional dwelling unit. J. Meader further advised in her opinion, the application supports the provincial policy statements for intensification.

S. Hannah advised he was sympathetic to the neighbourhood, the acknowledge the concerns related to precedence, indicating the Zoning on the street permits this type of development. S. Hannah further advised he was in agreement with the comments made by J. Meader.

Moved by J. Meader
Seconded by S. Hannah

That the application of 2611601 ONTARIO INC requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m. The retained land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m., on Part Lots 14 & 15, Registered Plan 384, 82 Pattandon Avenue, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner shall pay to the City of Kitchener a cash-in-lieu contribution for park dedication on the severed parcel equal in the amount of \$3,505.20.
4. That the owner shall make 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.

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3. Submission No.: B 2021-017 (Cont'd)

5. That the owner shall ensure 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 Division.
6. That the Owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
7. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
8. That the owner shall provide 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 shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the two lots.
10. That the owner shall 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 prior to any grading, servicing or the application or issuance of a building permit, the owner shall submit a plan, prepared by a qualified consultant, to the satisfaction and approval of the City's Director of Planning showing:
 - i. the proposed location of all buildings (including accessory buildings and structures), decks and driveways;
 - ii. the location of any existing buildings or structures that are to be removed or relocated;
 - iii. the proposed grades and drainage;
 - iv. the location of all trees to be preserved, removed or potentially impacted on or adjacent to the subject lands, including notations of their size, species and condition;
 - v. justification for any trees to be removed; and
 - vi. outline tree protection measures for trees to be preserved; and
 - b. Any alteration or improvement to the lands including grading, servicing, tree removal and the application or issuance of any building permits shall be in compliance with the approved plan. Any changes or revisions to the plan require the approval of the City's Director of Planning.
11. That the owner shall submit the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
12. That the owner shall enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a. The dwelling will be fitted with forced air-ducted heating system suitably sized and designed with provision for the installation of air conditioning in future, at the occupant's discretion.
 - b. The exterior walls (eastern and northern walls) facing the railway will be constructed with brick veneer (EW5) or acoustical equivalent.

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3. **Submission No.:** B 2021-017 (Cont'd)

- c. That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
- d. The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
 - i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic on Ottawa Street North, local municipal streets, and rail noise from CN Railway may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)".*
 - ii. *"This unit has supplied with central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Region of Waterloo and the Ministry of the Environment, Conservation and Parks."*
 - iii. *"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future*

including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."

It is the opinion of this Committee that:

- 1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
- 2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
- 3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

- 2. **Submission No.:** B 2021-018 to B 2021-020
Applicants: ELEV8 Properties Inc.
Property Location: 942 Doon Village Road
Legal Description: Part Lot 2, Biehn's Tract

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

Appearances:

In Support: S. O' Neill
S. Patterson

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to create 3 lots and retain 1 for residential development. All four of the lots are proposed to have access on Doon Mills Drive. The proposed lots will have the following dimensions:

B 2020-018 - (Severed Lot 1)

Access Doon Mills Drive
Width - 13.716m
Depth - 70.7m
Area - 918.4 sq.m

B 2020-019 - (Severed Lot 2)

Access Doon Mills Drive
Width - 13.716m
Depth - 70.7m
Area - 909.4 sq.m

B 2020-020 - (Severed Lot 3)

Access Doon Mills Drive
Width - 13.716m
Depth - 70.76m
Area - 909.6 sq.m

Retained Lot

Access Doon Mills Drive
Width - 19.695m
Depth - 70.76m
Area - 1306.6 sq.m

The Committee considered Development Services Department report DSD-2021-54 dated April 11, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated April 9, 2021, advising they have no objection to this 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 new lot created.
- 2) That prior to final approval, the owner/applicant complete an Environmental Noise Study and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise assessment attenuation measures, all to the satisfaction of the Region of Waterloo.

Scott Patterson and Sean O'Neill were in attendance in support of the applications. S. Patterson requested the Committee revising Condition 3 of the staff recommendation, noting the wording as proposed when applied to all three decisions could require the application to pay \$18K per severance, whereas the intention is that the cash-in-lieu contribution is noted is an accumulated total. S. Patterson further advised the Region of Waterloo has requested a Noise Study, noting he attempted to reach out to the Region in advance of the meeting but did not receive a response as of yet. S. Patterson indicated a previous severance application was approved by the Committee for 518 Bridgeport Road, which fronts onto a Regional road and is in close proximity to the expressway and a Noise Study was not requested in that instance. S. Patterson stated impacts of noise in that instance are likely greater than in this location and requested consideration be given to amending the condition to read "That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo" which would leave greater related to environmental noise that the Region could request a study, or could only require a Noise warning agreement", noting it would give some flexibility to the Region to request a Noise Study or an noise warning agreement.

It was suggested and agreed that the proposed amendments related to parkland dedication and the Environmental Noise condition be revised as requested. It was further suggested by S. Hannah and agreed that an additional condition be added to the Committee's decision this date require the owner to receive demolition approval for the existing dwelling prior to the severance of the lots.

2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

Submission No.: B 2021-018

Moved by S. Hannah
Seconded by B. McColl

That the application of ELEV8 PROPERTIES INC. requesting permission to sever a parcel of land identified as Severed Parcel 1 on the plan submitted with the application having a width on Doon Mills Drive of 13.716m, a depth of 70.7m and an area of 918.4 sq.m, on Part Lot 2, Biehn's Tract, 942 Doon Village Road, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner pays to the City of Kitchener a cash-in-lieu contribution for park dedication for a total accumulated amount of \$18,928.08 for the severed parcels identified in Consent Applications B 2021-018, B 2021-019 and B 2021-020.
4. That the Owner shall prepare Street Tree Management Plan (STMP), stamped by a certified Landscape Architect, in accordance with Section M of the Development Manual, to satisfaction of the City's Director of review by Parks and Cemeteries.
5. 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.
6. That the owner shall ensure 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 Division in Consultation with the City's Director of Transportation Services.
7. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
8. That the owner shall prepare a Grading Plan for the severed and retained lands in accordance with the City's Development Manual, to be approved by the City's Director of Engineering in consultation with the City's Director of Planning.
9. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
10. That the owner shall provide 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.
11. The owner shall prepare a Tree Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area, and vegetation to be preserved.

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

12. The owner shall enter into a modified subdivision agreement with the City of Kitchener to be prepared by the City Solicitor to the satisfaction of the City's Director of Planning, and registered on title of the Retained and Severed lands. Said agreement shall include the following conditions:

I. *Prior to Grading, Tree Removal, or Issuance of any Building Permits, whichever shall occur first:*

a) *The Owner shall implement all approved measures for the protection of trees as approved in the Tree Preservation/Enhancement Plan (where applicable) and to provide written certification from the Owner's Environmental Consultant to the City's Director of Planning that all protection measures have been implemented and inspected, in accordance with the City's Tree Management Policy. No changes to the said plans shall be granted, except with prior approval from the City's Director of Planning.*

II. *Prior to the Issuance of any Building Permits*

b) *The Owner shall obtain approval of a Lot Grading Control Plan showing the required elevation of each corner of each lot for the severed and retained lands and the required elevation(s) of the building site as well as the required direction flow of surface drainage which must be approved by the CITY'S Director of Engineering Services, and must conform to the approve Tree Management Plan, overall Grading Plan, and Street Tree Management Plan.*

In addition to the conditions noted above, the modified subdivision agreement shall contain language to address maintenance and access for any shared driveways, if proposed.

13. That the owner shall submit the applicant consent review fee of \$350.00 per new lot created to the Region of Waterloo.

14. That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo.

15. That the owner shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the lots.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

Submission No.: B 2021-019

Moved by S. Hannah
Seconded by B. McColl

That the application of ELEV8 PROPERTIES INC. requesting permission to sever a parcel of land identified as Severed Parcel 2 on the plan submitted with the application having a width on Doon Mills Drive of 13.716m, a depth of 70.7m and an area of 909.4 sq.m, on Part Lot 2, Biehn's Tract, 942 Doon Village Road, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner pays to the City of Kitchener a cash-in-lieu contribution for park dedication for a total accumulated amount of \$18,928.08 for the severed parcels identified in Consent Applications B 2021-018, B 2021-019 and B 2021-020.
4. That the Owner shall prepare Street Tree Management Plan (STMP), stamped by a certified Landscape Architect, in accordance with Section M of the Development Manual, to satisfaction of the City's Director of review by Parks and Cemeteries.
5. 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.
6. That the owner shall ensure 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 Division in Consultation with the City's Director of Transportation Services.
7. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
8. That the owner shall prepare a Grading Plan for the severed and retained lands in accordance with the City's Development Manual, to be approved by the City's Director of Engineering in consultation with the City's Director of Planning.
9. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
10. That the owner shall provide 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.
11. The owner shall prepare a Tree Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area, and vegetation to be preserved.

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

12. The owner shall enter into a modified subdivision agreement with the City of Kitchener to be prepared by the City Solicitor to the satisfaction of the City's Director of Planning, and registered on title of the Retained and Severed lands. Said agreement shall include the following conditions:

I. Prior to Grading, Tree Removal, or Issuance of any Building Permits, whichever shall occur first:

a) The Owner shall implement all approved measures for the protection of trees as approved in the Tree Preservation/Enhancement Plan (where applicable) and to provide written certification from the Owner's Environmental Consultant to the City's Director of Planning that all protection measures have been implemented and inspected, in accordance with the City's Tree Management Policy. No changes to the said plans shall be granted, except with prior approval from the City's Director of Planning.

II. Prior to the Issuance of any Building Permits

c) The Owner shall obtain approval of a Lot Grading Control Plan showing the required elevation of each corner of each lot for the severed and retained lands and the required elevation(s) of the building site as well as the required direction flow of surface drainage which must be approved by the CITY'S Director of Engineering Services, and must conform to the approve Tree Management Plan, overall Grading Plan, and Street Tree Management Plan.

In addition to the conditions noted above, the modified subdivision agreement shall contain language to address maintenance and access for any shared driveways, if proposed.

13. That the owner shall submit the applicant consent review fee of \$350.00 per new lot created to the Region of Waterloo.

14. That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo.

15. That the owner shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the lots.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

Submission No.: B 2021-020

Moved by S. Hannah
Seconded by B. McColl

2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

That the application of ELEV8 PROPERTIES INC. requesting permission to sever a parcel of land identified as Severed Parcel 3 on the plan submitted with the application having a width on Doon Mills Drive of 13.716m, a depth of 70.7m and an area of 909.6 sq.m, on Part Lot 2, Biehn's Tract, 942 Doon Village Road, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner pays to the City of Kitchener a cash-in-lieu contribution for park dedication for a total accumulated amount of \$18,928.08 for the severed parcels identified in Consent Applications B 2021-018, B 2021-019 and B 2021-020.
4. That the Owner shall prepare Street Tree Management Plan (STMP), stamped by a certified Landscape Architect, in accordance with Section M of the Development Manual, to satisfaction of the City's Director of review by Parks and Cemeteries.
5. 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.
6. That the owner shall ensure 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 Division in Consultation with the City's Director of Transportation Services.
7. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
8. That the owner shall prepare a Grading Plan for the severed and retained lands in accordance with the City's Development Manual, to be approved by the City's Director of Engineering in consultation with the City's Director of Planning.
9. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
10. That the owner shall provide 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.
11. The owner shall prepare a Tree Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area, and vegetation to be preserved.
12. The owner shall enter into a modified subdivision agreement with the City of Kitchener to be prepared by the City Solicitor to the satisfaction of the City's Director of Planning, and registered on title of the Retained and Severed lands. Said agreement shall include the following conditions:

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

I. *Prior to Grading, Tree Removal, or Issuance of any Building Permits, whichever shall occur first:*

a) *The Owner shall implement all approved measures for the protection of trees as approved in the Tree Preservation/Enhancement Plan (where applicable) and to provide written certification from the Owner's Environmental Consultant to the City's Director of Planning that all protection measures have been implemented and inspected, in accordance with the City's Tree Management Policy. No changes to the said plans shall be granted, except with prior approval from the City's Director of Planning.*

II. *Prior to the Issuance of any Building Permits*

d) *The Owner shall obtain approval of a Lot Grading Control Plan showing the required elevation of each corner of each lot for the severed and retained lands and the required elevation(s) of the building site as well as the required direction flow of surface drainage which must be approved by the CITY'S Director of Engineering Services, and must conform to the approved Tree Management Plan, overall Grading Plan, and Street Tree Management Plan.*

In addition to the conditions noted above, the modified subdivision agreement shall contain language to address maintenance and access for any shared driveways, if proposed.

- 13. That the owner shall submit the applicant consent review fee of \$350.00 per new lot created to the Region of Waterloo.
- 14. That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo.
- 15. That the owner shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the lots.

It is the opinion of this Committee that:

- 1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
- 2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
- 3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

- 2. **Submission No.:** B 2021-021 to B 2021-023
- Applicants:** Adam & Tracy Szuba and Roberto Drelini
- Property Location:** 654 Rockway Drive
- Legal Description:** Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347

Appearances:

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2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

In Support: D. Galbraith

Contra:	T. McCrabb	H. & B. Woodley
	S. & P. Hartigan	S. Jones
	P. & C. Berry	S. & J. Francis
	B. Hotton	M. & C. McFarlane

Written Submissions:	C. & J. Axler	B. Voigt
	P. Rath	S. Hartigan
	S. Francis	P. Schreiter
	P. & C. Berry	M. Cameron
	B. Hooton	M. McFarlane
	H. Woodley	R. Gurney
	S. & M. Jones	

The Committee was advised the applicant is requesting permission to create 3 lots and retain 1 for the construction of two semi-detached dwellings. The proposed lots will have the following dimensions:

Retained Parcel - (Parcel A)

Width - 8.38m
Depth - 32.61m
Area - 263 sq.m

B 2021-021 - (Parcel B)

Width - 8.38m
Depth - 32.61m
Area - 263 sq.m

B 2021-022 - (Parcel C)

Width - 8.38m
Depth - 32.62m
Area - 263 sq.m

B 2021-023 - (Parcel D)

Width - 8.38m
Depth - 32.61m
Area - 263 sq.m

The Committee considered Development Services Department report DSD-2021-50 dated April 8, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated April 9, 2021, advising they have no objection to this application subject to the following conditions:

- 1) That prior to final approval, the owner/applicant enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a. The dwelling units(s) must be installed with air-ducted heating and ventilation system, suitably sized and designed with provision of adding central air conditioning.
 - b. The dwelling unit(s) on the proposed severed and retained lands will be registered with the following noise warnings clauses on title:
 - i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic on King Street East (RR #08) / Charles Street may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)".*
 - ii. *"This dwelling has been fitted with a forced air-ducted heating system and has been designed with the provision of adding central air conditioning at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)".*
 - c. That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.

Dave Galbraith, IBI Group, was in attendance in support of the subject application and the staff recommendation.

2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

Tim McCrabb, Heather & Bruce Woodley, Stewart Jones, Paul & Christine Berry, Sarah & James Francis, Bob Hooten and Meredith & Chris McFarlane were in attendance in opposition to the application.

Sharon Hartigan addressed the Committee on opposition to the subject application. S. Hartigan advised she resides at a property on Rockway Drive, the street borders the Rockway Golf Course and Rockway Gardens. S. Hartigan noted the area residents were disappointed to learn about the applications and that the proposed severances are in compliance with the current Zoning regulations on the street. S. Hartigan commented the applications do not take into consideration the adjacent properties or the neighbourhood, indicating in her opinion it is not good intensification or compatible with Rockway Drive. S. Hartigan further advised if approved she will be required to landscape her backyard to protect her amenity space. S. Hartigan requested the Committee consider deferring the applications to allow a further review of the information outlined in the planning report.

Phil Hartigan stated he was in opposition to the application. P. Hartigan stated the staff report includes comments about being satisfied with the shape of the lots, the desirability and compatibility with the surrounding community, indicating the neighbourhood is comprised of single, semi and multi use dwellings. P. Hartigan advised the residents disagree with these statements, indicating the street is comprised of single detached homes constructed between 1935 and 1953, noting there are no semi-detached dwellings or duplexes. P. Hartigan advised the properties on the street all have 60 ft frontages and the proposed severances would sever a lot from 110 ft wide to four lots having 19 ft frontages. P. Hartigan stated in his opinion the applications contravenes the policies within the City's Official Plan and would have adverse impacts on the Rockway Gardens Cultural Heritage Landscape. P. Hartigan requested a deferral of the application to thoroughly examine the heritage significance of the area, noting the applications are not compatible with Rockway Drive.

The Chair expressed comments that he was surprised not to see additional comments from Heritage Planning staff due to the proximity to Rockway Gardens and the significance of the area. The Chair expressed some concern on how the proposed lots would blend in with the existing neighbourhood.

J. Meader indicated she shared similar concerns to the Chair, stating she was not in support of the proposed applications. J. Meader indicated when reviewing a consent application the Committee must consider a policy within the Official Plan that states "application for consents will only be granted where the lots reflect the general scale and character of the established development pattern of the surrounding land taking into consideration lot frontages, areas and configurations." Following review of the staff report, J. Meader stated she did not see any analysis from the Planning staff or from the Applicants planner to support that policy. Reviewing the location map of the area and reviewing the severance sketch it is completely different from what is surrounding the subject property. J. Meader further advised the street is unique, with a semi-rural cross section and large lots and although she acknowledge development was occurring closer to the intersection, the proposal was not appropriate for the subject lands.

In response to questions, D. Galbraith advised the applicant to date is only proposing the severance of the lots, they have yet to prepare elevation drawings for the proposed semis. D. Galbraith indicated the design would be informed by the character of the neighbourhood as well as the Residential Intensification in Established Neighbourhoods Study (RIENS), indicating the dwellings are proposed to have front yard setbacks of 8.5m which is compatible with the existing homes on the street. D. Galbraith advised the architectural character of the dwellings has not yet been determined.

In response to questions related to the Cultural Heritage Landscape (CHL) study, J. von Westerholt advised the CHL are for Rockway Gardens applies to a portion of the street and the golf course. J. von Westerholt stated the CHL is not a heritage designation, although the area was identified, further work would be required to list or designate the area as significant.

Questions were raised regarding the R4 Zoning and when Zoning was updated to permit semi-detached dwellings. J. von Westerholt advised the R4 Zoning has always permitted semi-detached dwellings. C. Dumart advised the current Zoning for the street has been in place since the 1980's.

2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

C. Dumart advised the property is comprised as a double wide lot and would have a similar footprint if the lot was severed in half and single detached dwellings were constructed. C. Dumart further advised the applicant is proposing to further subdivide the semi-detached dwellings so they can each half can be held in separate ownership.

The Chair noted he did not really support the comments of staff related to similar building footprints between the semi-detached dwellings and single detached dwellings, noting he could possibly support two single detached dwellings. The Chair noted semi-detached dwellings are not similar to single detached dwellings.

C. Dumart stated the application does not include a request to add semi-detached dwelling as a permitted use.

S. Hannah stated when reviewing the application, it is clear that the property is a double wide lot. The application through the proposal is tying to make use of the existing Zoning. S. Hannah stated in his opinion the street should be a heritage conservation district and the zoning should only permit single detached dwellings. S. Hannah further advised without knowing what is proposed to be constructed on the property he is currently opposed to the applications. S. Hannah commented the character of the neighbourhood is important in this instance, stating they could possibly construct semi-detached dwellings that are compatible with the adjacent properties, stating a contemporary design in this instance would have an adverse impact on the streetscape.

B. McColl brought forward a motion to refuse the subject applications based on the opinion that the development is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Submission No.: B 2021-021

**Moved by B. McColl
Seconded by J. Meader**

That the application of ADAM DOUGLAS SZUBA, TRACY MARY SZUBA and ROBERTO DRELINI requesting permission to sever a parcel of land identified as Parcel 'B' on the plan submitted with the application having a width of 8.38m, a depth of 32.61m and an area of 263 sq.m., on Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347, 654 Rockway Drive, Kitchener, Ontario, **BE REFUSED.**

It is the opinion of this Committee that the lot to be created through this application is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

Submission No.: B 2021-022

**Moved by B. McColl
Seconded by J. Meader**

That the application of ADAM DOUGLAS SZUBA, TRACY MARY SZUBA and ROBERTO DRELINI requesting permission to sever a parcel of land identified as Parcel 'C' on the plan submitted with the application having a width of 8.38m, a depth of 32.62m and an area of 263 sq.m., on Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347, 654 Rockway Drive, Kitchener, Ontario, **BE REFUSED.**

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2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

It is the opinion of this Committee that the lot to be created through this application is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

Submission No.: B 2021-023

Moved by B. McColl
Seconded by J. Meader

That the application of ADAM DOUGLAS SZUBA, TRACY MARY SZUBA and ROBERTO DRELINI requesting permission to sever a parcel of land identified as Parcel 'D' on the plan submitted with the application having a width of 8.38m, a depth of 32.61m and an area of 263 sq.m., on Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347, 654 Rockway Drive, Kitchener, Ontario, **BE REFUSED.**

It is the opinion of this Committee that the lot to be created through this application is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

COMBINED APPLICATION

- 1. **Submission No.:** B 2021-024, A 2021-034
- Applicant:** 59 Carisbrook Dr. Ltd.
- Property Location:** 59 Carisbrook Dr.
- Legal Description:** Part Lot 59, German Company Tract

Appearances:

In Support: M. Warzecha
A. Bast

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to sever a parcel of land being irregular in shape at the rear of the property having a width of 38.71m, a westerly depth of 33.22m and an area of 503 sq.m. to be conveyed as a lot addition to the property municipally addressed as 34 Hillcrest Lane. Permission is also being requested for a minor variance to legalize the subject property for have frontage on a private lane whereas the By-law requires all properties to have frontage on a public street.

The Committee considered Development Services Department report DSD-21-051 dated April 9, 2021, recommending approval of these applications, subject to the conditions outlined in the Report.

COMMITTEE OF ADJUSTMENT MINUTES

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1. Submission No.: B 2021-024, A 2021-034 (Cont'd)

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with applications B 2021-024 and A 2021-034.

The Committee considered the report of the Grand River Conservation Authority dated April 8, 2021, advising they have no objection to this application subject to the following condition:

- 1) That prior to final approval, the owner/applicant submit the plan review fee of \$430.00.

Submission No.: B 2021-024

Moved by S. Hannah
Seconded by J. Meader

That the application of 59 CARISBROOK DR LTD requesting permission to sever a parcel of land being irregular in shape at the rear of the property having a width of 38.71m, a westerly depth of 33.22m and an area of 503 sq.m. to be conveyed as a lot addition to the property municipally addressed as 34 Hillcrest Lane, on Part Lot 59, German Company Tract, on 59 Carisbrook Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner shall provide a building code assessment as it relates to the new proposed property line to the satisfaction of the Chief Building Official. The building code assessment relates to the new proposed property line and any of the buildings adjacent to this new property line and 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.
4. That the owner shall ensure the lands to be severed are to be added to the abutting lands and title is to be taken into identical ownership as the abutting lands. The deed for endorsement shall include that any subsequent conveyance of the parcel to be severed shall comply with Sections 50(3) and/or (5) of the Planning Act, R.S.O. 1990, c. P.13, as amended.
5. That the owner's Solicitor shall provide a Solicitor's Undertaking to register an Application Consolidation Parcels immediately following the registration of the Severance Deed and prior to any new applicable mortgages, and to provide a copy of the registered Application Consolidation Parcels to the City Solicitor within a reasonable time following registration.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

COMMITTEE OF ADJUSTMENT MINUTES

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CITY OF KITCHENER

1. Submission No.: B 2021-024, A 2021-034 (Cont'd)

Submission No.: A 2021-034

Moved by S. Hannah
Seconded by J. Meader

That the application of 59 CARISBROOK DR LTD requesting permission to legalize the subject property to have frontage on a private lane for the purpose of a lot addition requested through Consent Application B 2021-024 whereas the By-law requires all properties to have frontage on a public street, on Part Lot 59, German Company Tract, 59 Carisbrook Drive, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

ADJOURNMENT

On motion, the meeting adjourned at 12:19 p.m.

Dated at the City of Kitchener this 20th day of April, 2021.

Dianna Saunderson
Secretary-Treasurer
Committee of Adjustment

TAB 5

ISSUE DATE:

July 08, 2011



PL110214

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant / Appellant: Chris & Rochell McNabb
Subject: Consent
Property Address/Description: 814 Glasgow Street
Municipality: City of Kitchener
Municipal File No.: B-2010-046
OMB Case No.: PL110214
OMB File No.: PL110214

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant / Appellant: Chris & Rochell McNabb
Subject: Consent
Property Address/Description: 814 Glasgow Street
Municipality: City of Kitchener
Municipal File No.: B-2010-050
OMB Case No.: PL110214
OMB File No.: PL110215

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant / Appellant: Chris & Rochell McNabb
Subject: Minor Variance
Variance from By-law No.: 85-1
Property Address/Description: 814 Glasgow Street
Municipality: City of Kitchener
Municipal File No.: A-2011-017
OMB Case No.: PL110214
OMB File No.: PL110216

APPEARANCES:

Parties

Chris & Rochell McNabb
City of Kitchener

Counsel

Karl D. Jaffary Q.C.
Steve Ross

Region of Waterloo

Debra Arnold

Mr. Doug Good

John V. Cosman

DECISION DELIVERED BY J. P. ATCHESON AND ORDER OF THE BOARD

This was a hearing in the matter of appeals by Chris and Rochell McNabb from decisions of the City of Kitchener, Committee of Adjustment, that refused to grant consents for two residential lots, together with the Committee of Adjustment's decision to refuse to authorize a minor variance from Zoning By-law 85-1 of the City of Kitchener for proposed Lot A, all being Committee of Adjustment files (B-2010-046, B-2010-050 and A-2010-017).

The lots proposed by the Appellants are located on a property known as 814 Glasgow Street in the City of Kitchener. Proposed Lot A is a corner lot at the intersection of Glasgow Street and Silvercrest Drive and would have a frontage of some 26.131 metres on Silvercrest Drive and an overall lot area of some 740.9 sqm. Proposed Lot B would have a lot frontage of some 25.042 metres on Glasgow Street and a lot area of some 929.05 sqm. The retained lands are occupied by an existing residential dwelling, a detached garage and private water and sewage systems. The retained lot would have a frontage of some 24 metres on Silvercrest Drive and a lot area of 2115.1 sqm.

The variance requested applies to Lot A and seeks relief from Section 36.2.1 of Zoning By-law 85-1 of the City of Kitchener to permit a lot area of 740.9 sqm whereas the Zoning By-law 85-1 requires a minimum lot area of 929 sqm. The proposed lot configuration is set out at Exhibit 4, Tab D.

At the commencement of the hearing Mr. Cosman, Counsel for Mr. Good a neighbour, sought party Status. Mr. Good is a resident who lives across the road from the subject property. The Board, with the consent of the other parties, granted Mr. Good party status.

Counsel for the Region of Waterloo advised the Board that the Region took no position with respect to the matters other than to indicate that if the Board was to find in

favour of the Appellant and approved the consents and variance, that the Region would request the inclusion of conditions as set out at Exhibit 2. Similarly, Counsel for the City of Kitchener advised that the City took no position on the matter but requested that if the Board was to find in favour of the Appellant, that the conditions recommended by staff to the Committee of Adjustment as set out at Exhibit 8, be imposed.

All parties on consent indicated that in the event that the Board were to find in favour of the Appellant, that the conditions of the Region and the City were appropriate, bearing in mind the concerns that would be adduced by Mr. Good's witnesses with respect to the City's conditions.

CONTEXT AND THE EVIDENCE

The subject lands consist of a 0.4 hectare residential corner lot. Currently the property is developed with a large single family home (approximately 350 sqm) that sits diagonally and generally in the middle of this well treed lot. The open amenity space associated with the existing home is predominately to the north as shown on Exhibit 6. The property has a frontage of some 53.18 metres on Silvercrest Drive (Waterloo) and a flankage of some 74.37 metres along Glasgow Street (Kitchener) and derives its current access from Silvercrest Drive. The east side of Silvercrest Drive forms the municipal boundary between the Cities of Kitchener and Waterloo. There is a significant change in grade between the road way and subject property along Glasgow Street of about 3 metres, and as such the City of Kitchener when it reconstructed Glasgow Street installed a retaining wall and steel road barrier as shown on Exhibit 6 along a major portion of the northern edge of Glasgow Street right-of-way that abut the subject property as shown on Exhibit 6.

The surrounding land uses consist of a vacant large single family lot to the immediate north, to the west on the opposite side of Silvercrest Drive is a single family residential development on smaller lots (15.3 meter frontages) in the City of Waterloo. A 53-unit Townhouse development exists to the south west, diagonally opposite to the subject lands. Lots to the east and southeast along Glasgow Street consists of larger estate lots which range in size from 0.2 ha to 0.83 ha and with frontages varying from 31.6 to 63.9m. These lots generally consist of larger single family homes in a variety of

housing styles nestled into the former woodlot that covered this area. By all accounts this is an enclave of upscale residential homes in the City of Kitchener. The area by all accounts is stable with some redevelopment of new homes on existing lots. In 2000 one residential lot of some 0.09 ha in area was created by consent some 600 metres to the east of the subject property on the north side of Glasgow Street. This severed lot is located adjacent to a condominium project situated on Briar Patch Lane. Residential lots of similar character but slightly smaller in size exist to the immediate north on Maple Hill Drive. The Maple Hill area gains access from Silvercrest Drive.

The subject lands are governed by a number of both provincial and local planning policy regimes being:

1. The 2005 Provincial Policy Statement;
2. The Growth Plan for the Greater Golden Horseshoe Area;
3. The Region of Waterloo Official Plan which designates the City of Kitchener within the "City Urban Area" (Section 7.3.1.1);
4. The City of Kitchener Official Plan designates the site "Low Rise Residential"; and
5. The new adopted but not yet approved Official Plan for the Region of Waterloo designates the site "Built -Up Area of the Urban Area Neighbourhood".

The planning witnesses all generally agree that the Provincial Planning documents sanction the proposed development on this site and encourage that such urban sites be considered as candidate areas for redevelopment and intensification. The planners also agree that the form and extent of intensification is governed by the policy regime of the in force City of Kitchener's Official Plan and Zoning By-law.

The site is currently zoned by Zoning By-law 85-1 of the City of Kitchener as "Residential Two Zone (R2)" which would permit among other things single-family dwellings on lots with 24 meter frontages with a minimum lot area of 929.0 sq metres. This zone also permits Duplex Dwellings and Residential Care Facilities under the same regulations.

These facts are not in dispute.

The Board, during the course of this two-day hearing, heard from four lay witnesses and the following qualified professionals:

1. Mr. Sandro Bassanese, a qualified Land Use Planner and Urban Designer employed by the City of Kitchener as an Urban Designer, testified under summons regarding the City staff's planning report on the Appellant's applications to the Municipality;
2. Mr. Scott J. Patterson, a qualified Land Use Planner, was retained by the Appellant in the summer of 2010 to assist them in the preliminary planning evaluation of the site and to assist his client in their applications to the Municipality's Committee of Adjustment;
3. Mr. Mark L. Dorfman, a qualified Land Use Planner, was retained by Mr. Good to review the documents filed with the original application as amended and to provide his opinion on the merits of the applications now before the Board.

Mr. McNabb, is the owner/resident with his wife, of the subject property, and is a successful developer. He spoke in favour of the project and advised the Board how he felt the site could be sensitively developed in keeping with the character of the area. The other three lay witnesses, all of whom live in the immediate neighbourhood, testified in opposition to the proposed development raising a list of concerns. However, in the Board's finding, the salient concerns expressed by these residents may be summarized as follows:

1. The proposed development is not in keeping with the general character of the area;
2. The loss of trees on the property;
3. The changes in the existing views of the streetscape along Glasgow Street;
4. The driveway access from Lot B to Glasgow Street is unsafe;

5. The loss of privacy due to change in elevation and proximity of the proposed new homes to the house on the existing lot, and its proximity to Mrs. Kan's home to the immediate east;
6. The proposed development is an over development of the site, resulting in an irregular and chaotic lot pattern;
7. The proposed development will result in a loss of many trees on the site which they view as a negative environmental impact.

There is also general agreement among the planning witnesses regarding the applicable policies of the City of Kitchener Official Plan to be considered in evaluating this proposal. However, their planning opinions vary as to whether the proposal now before this Board and the proposed implementing documents and conditions recommended by the Region and the City of Kitchener's staff conform to these policies. The Planning witnesses also generally agree that the Provincial Policy regimes encourage more compact built form within the built up area of the City of Kitchener and would encourage the intensification of this site. They also agree that the built form and the density of intensification for this site are to be left to the determination of the City through its planning policy documents. They disagree that the Appellant's applications met the Official Plan tests, the criteria for the subdivision of land as set out in Section 51 (24), and the four tests for a minor variance set out in Section 45(1) of the *Planning Act*.

It is clear to the Board the matters in the case are local in nature and would not offend any Provincial policies' directions. Further the City of Kitchener Official Plan encourages in Part 2, Section 1.5:

The creation of additional housing in existing developed areas, through conversion, infill and redevelopment as an appropriate response to needs and to make better use of existing infrastructure and public service facilities.

However, this is not an outright sanction to new more intense development as Section 1.5.3 of the Kitchener Official Plan makes it clear that:

Any new residential buildings, additions to existing buildings, modifications to existing residential buildings and conversions in predominantly low density neighbourhoods shall be consistent with the massing, scale, design and character of that neighbourhood and both appropriate landscaped areas and appropriate parking areas are provided.

Similarly when considering planning approval for a minor variance, Section 1.6 of the City of Kitchener Official Plan requires among other things that:

- i) Any new buildings and any additions and/or modification are appropriate in massing and scale and are compatible with the built form and character of the neighbourhood.
- ii) Front yard setback reductions may be considered for new buildings in established neighbourhoods provided the front yard setback is similar to adjacent properties and supports and maintains the character of the streetscape
- iii) New buildings, additions, modifications and conversions are sensitive to the exterior area of adjacent properties and that appropriate screening and /or buffering is provided to mitigate any adverse impacts.

It was Mr. Patterson's position that the revised application, when considered in light of the conditions being recommended by City staff, would meet the objectives of the Official Plan and that his client through his Preliminary Vegetation Management Plan, Exhibit 5 and Preliminary Grading Plan, Exhibit 6 and proposed building Elevation Plan, Exhibit 7 had on a *prima facie* basis established that the property can be developed as proposed in conformity with the applicable policies of the City's Official Plan and would not offend the criteria for subdividing lands prescribed by the *Planning Act*.

Mr. Dorfman on the other hand opined that the grading as set out in the Preliminary Grading Plan, Exhibit 6, would require either the filling of Lot B or the creation of a bridge in order to access Glasgow Street. He demonstrated his concerns with several elevation cross sections through this proposed lot. He opined that to construct a new home of the elevation proposed on Lot B would result in overview issues with the existing home on the site. He noted that in order to consummate the development plan approximately 40% of the existing dwelling's footprint (the Pool House) would have to be demolished and the proposed western lot line needed to be adjusted to provide the minimum separations required by the Zoning By-law and that this lot configuration was not good planning and would not conform to the applicable

Official Plan policies found in Sections 1.5 and 1.6. It was his evidence that the proposed sighting of the buildings on the proposed lots would create oversight issues with the existing dwelling on the site, did not conform to the policy directions of Section 1.6. iii), and that to create oversight issues was not good planning. It was his opinion that the configuration of the proposed lots was irregular and "Chaotic" and did not represent orderly development of the site. He further, through his study of lot sizes for various corridors in the area, opined that the lot pattern being proposed was not consistent with the lot pattern found in the area, that proposed Lot A was one of the smallest lots in the area when compared to the lots situated to the east along Glasgow Street and would not meet the applicable test of Section 51(24) of the *Planning Act* namely that the proposed lots do not meet the intent of the City of Kitchener's Official Plan and that the dimensions and shape of the proposed lots are not in keeping with the existing lots found in the area.

Mr. Patterson opined that the proposed lots, with the exception of Lot A, meet all of the requirements of the Zoning By-law and that the reduction in this lot area was the result of requests by city staff to maintain the existing private services (the Well) on the retained lot. He opined that the lot configuration was the result of his client's attempt to preserve the trees on the site, a portion of the existing dwelling, and the private services on the site and met the requests of City staff. He opined that the reduction in only the Lot area of Lot A was minor when considered in relation to the smaller lot sizes found to the west and that this site and proposed development provided an appropriate transition from the smaller lots to the west in relation to the larger lots found to the east along Glasgow Street. Mr. Dorfman, on the other hand, opined that there was no compelling planning reason to create a transition where one is not required. He noted the Glasgow neighbourhood is intact and that the existing lots in this area have existed for more than fifty years without any significant fragmentation.

Mr. Sandro Bassanese testified that in his opinion the conditions being recommended by City staff would protect much of the vegetation on the site. He anticipated from the Preliminary Vegetation Management Plan, Exhibit 5, that eight mature maple trees would be lost as a result of the development pattern being proposed. Mr. Dorfman believes that more trees may be affected. Mr. Bassanese freely admitted, under cross examination, that the posting of performance securities and the ability for the City to enter upon the site to enforce the proposed conditions were

important requirements of any agreement sanctioning the development of the property. The Board has no doubt that the City can develop an appropriate subdivision agreement to protect the public interest in this case and further that such an agreement should and would be a requirement for any redevelopment of this site that considered intensification. However, the test in the first instance is whether the revised proposed lotting pattern represents good long-term planning for this area of the City of Kitchener.

FINDINGS AND CONCLUSIONS

The Board, after carefully reviewing the evidence, the exhibits filed and the submissions made by the parties and the participants, makes the following findings.

It is clear that in recent years one of the major thrusts of Provincial Policy has been the more efficient use of our municipal infrastructure within urban areas and that intensification within urban areas is a significant tool in achieving this objective. There is no evidence that the City of Kitchener has not been or is not currently following this Provincial Policy direction. It is also equally clear that the subject site is an excellent candidate for redevelopment and that any form of residential redevelopment that increased the number of residential dwelling units in the site regardless of its density would qualify as intensification.

The Provincial mandate for intensification is not a licence to abandon sound planning principals, or to diminish appropriate land use planning standard in search of more density. Alternatively, intensification requires sensitive design as stated in the City of Kitchener's Official Plan that "shall be consistent with the massing, scale, design and character of that neighbourhood and both appropriate landscaped areas and appropriate parking areas are provided."

The Board would note that the existing zoning standards of the City of Kitchener covering this area are substantial in comparison to contemporary residential zoning standards found to the immediate west. However, the facts in this case are that the standards established by Zoning By-law 85-1 of the City of Kitchener being "Residential Two Zone (R2)" are minimum standards when compared to the development that has already occurred in this area and provides a suitable regulatory framework for the

intensification of this area. The Board finds in this case that to further reduce the lot area standard for Lot A would not result in appropriate development consistent with the form of development that characterizes this neighbourhood of the City of Kitchener, and that on this basis the relief sought for proposed Lot A is not minor and would not meet the intent and purpose of the City of Kitchener's Official Plan and Zoning By-law and would not result in the appropriate development of this area.

The Board appreciates that the lot pattern being proposed results from attempts to preserve the existing private infrastructure of the existing residence which in no small part results from the location of the existing residence and its private infrastructure on this property. However, in the Board's finding these efforts result in a lot pattern that is inconsistent and not compatible with the existing lot pattern in the area and does not maintain the character of the streetscape as required by the City of Kitchener's Official Plan.

The reduction in lot area in this case is the function of preserving an existing well on the retained parcel. The more compelling evidence is that full municipal services are available in this area requiring only normal extensions of this infrastructure. To create a new development scheme designed to avoid full municipal services in an urban area as part of a proposal to intensify the level of development on the site in the Board's finding is not good planning. In this regard the Board finds that the City staff had it right when they first considered the application and stated that:

Staff is of the opinion that this lotting pattern does not conform with the scale and character of the neighbourhood.

The Board finds that the minor changes to the lotting pattern of Lot A resulting in its reduced lot area to ensure that the existing well is on the retained property is an engineering and servicing issue but does not alter the fundamental soundness of staff's original opinion. Nor does the Board find that the Preliminary Vegetation Management Plan, Exhibit 5, the Preliminary Grading Plan, Exhibit 6 and proposed building Elevation Plan, Exhibit 7, demonstrate that this minor change to Lot A in any significant way alters the irregular lotting pattern or is an appropriate rationale to abandon the lotting pattern that characterizes the area. Nor does the Board conclude that the lotting pattern has been specifically changed to protect the trees on the site. Under a more regular and consistent lotting pattern the protection of the existing trees as much as possible would

still be an issue requiring the City's attention. The Board concludes that the revised lotting pattern does not conform with the lotting pattern currently found in the neighbourhood which constitute the scale and character of the Glasgow Street neighbourhood. Furthermore the reasons given by the Appellant's planning witness to change the lotting pattern to that being proposed are not compelling and do not represent good long-term planning for this area.

The Board in this regard prefers the opinions of Mr. Dorfman that the lot pattern will result in overview issues from the new lots to the existing dwelling that this situation could and should be avoided. This proposed lotting pattern in the Board's finding does not constitute good planning consistent with the requirements of the City of Kitchener's Official Plan Sections 1.5 and 1.6 and the criteria of Sections 51. (24). (c), (d) and (f) of the *Planning Act*. Furthermore, for the reasons indicated earlier in this decision the Board concludes that the minor variance for proposed Lot A does not meet the four tests of Section 45. (1) the *Planning Act*

Accordingly and for the reasons contained in the decision:

1. **THE BOARD ORDERS** that the appeal from the decision of the Committee of Adjustment of the City of Kitchener (File No.: (B-2010-046) is denied and the provisional consent is not to be given.

2. **THE BOARD ORDERS** that the appeal from the decision of the Committee of Adjustment of the City of Kitchener (File No. B-2010-050) is denied and the provisional consent is not to be given.

3. **THE BOARD ORDERS** that the appeal from the decision of the Committee of Adjustment of the City of Kitchener (File No. A-2010-017) is denied and the minor variance is not authorized.

This is the **Order** of the **Board**.

"J. P. Atcheson"

J. P. ATCHESON
MEMBER

October 15, 2021

Via E-mail (eric.schneider@kitchener.ca)

Eric Schneider
Planner
City of Kitchener
200 King Street West
Kitchener, ON N2G 4G7

John S. Doherty
Direct +1 519 575 7518
Direct Fax +1 519 571 5018
john.doherty@gowlingwg.com
File no. K0567317

Dear Mr. Schneider:

Re: Letter of Objection
Proposed Re-development of 400 Westwood Drive, Kitchener

We are counsel for Saladin Sahinovic, owner of property municipally described as :
Ontario.

We write further to the Zoning By-law Amendment and Consent applications for 400 Westwood Drive, Kitchener (the "**Subject Property**"). The owners of the Subject Property are proposing to demolish the existing residence and develop four (4) single detached lots/dwellings on the Subject Property (the "**Redevelopment**") next door to our Client's property, as well as conveying the rear half of the Subject Property to the owner of 787 Glasgow St, as a lot addition. While our Client was provided with a written notice of the Redevelopment in the mail, no notice sign has been posed in front of the property as of the time of writing this letter and there may be members of the public who have not been provided with sufficient notice.

Historic Development of Subject Property

Munk Subdivision and Established Green Belt

The Subject Property is located near the intersection of Westwood Drive and Glasgow Street, and the single residence is located on a portion of Lot 1 of the original four-lot Yvonne Munk Subdivision Plan (the "**Munk Subdivision**") established in the late 1970s (copy of plan attached at **Tab "1"**). The Munk Subdivision lands and the broader neighbourhood around Glasgow Street are characterised by a green belt of mature forest.¹ When the application for the Munk Subdivision was made, the Green Belt Neighbourhood Association was formed in response to the application, and the Association agreed to support the application in exchange for the preservation of the Green Belt located on the subdivision lands, including the following conditions,

"4. Existing Conditions

¹ Bounded by Maple Hill Drive in the north to Westwood Drive in the south, and on the west [East side of Silvercrest (Kitchener) North of Glasgow / Westwood Drive south of Glasgow] to Knell Drive on the east.

The property being subdivided is at the corner of Glasgow Street and Westwood Drive. The property will retain its Township Residential zoning which requires lots with a minimum area of 0.20 hectares (one-half acre). The surrounding property is residential with large lot development along Glasgow Street and Semi-Detached development along Westwood Drive. The lot is heavily wooded."

(see attached letter from Green Belt Neighbourhood Association Coordinator Judy-Anne Chapman, dated October 22, 1999 at **Tab "2"**)

The 400 Westwood 1999 Severance

In 1999, more than 20 years after the Munk Subdivision was established, a further severance was approved subdividing Lot 1 further and allowing for a single infill site at the south-eastern rear of the Subject Property fronting onto Dayman Court. This Severance left the portion of Lot 1 that currently comprises the Subject Property today, including the retention of the woodlot at the rear of the property.

At the time of the 1999 severance application, City Council was reminded of the agreement between the Green Belt Neighbourhood Association and the original developer. As a condition of approval, the City required a Tree Preservation/Enhancement Plan which minimized the impact on the wooded character of the severed lot, consistent with the other Munk Subdivision lots.

The Current Re-Development Application

The current redevelopment application seeks to subdivide the Subject Property into five (5) lots, as detailed below in the table included on page 11 of the IBI Planning Justification Report,

Description	Proposed Area	Proposed Frontage
Lot 1	627.7 sq. m	15.3 m
Lot 2	477.3 sq. m	11.6 m
Lot 3	477.3 sq. m	11.6 m
Lot 4	470.1 sq. m	11.5 m
Lot 5	1,785.0 sq. m	0.0 m (on Westwood Drive)

The proposed re-development would require a significant jump in zoning from R-2 to R-4 and result in the original Lot 1 from the Munk Subdivision being subdivided into six (6) separate lots (it is currently two [2] lots as a result of the 1999 severance), with four development parcels shoe-horned between the same lots from the Munk Subdivision, with their same estate lot dimensions and wooded character.

Our Client sought a planning opinion from Mark Dorfman, who has opined that no more than three (3) residential lots and R3 zoning is appropriate for the Subject Property from a planning perspective. He also cautions the City of Kitchener to not amend the Zoning Bylaw, then later deal with the site impacts as site plan issues, without first consultation with the neighbors in the community. A copy of his planning opinion is attached at **Tab "3"**.

We note that earlier this year, the City's Committee of Adjustment also refused Consent Applications sought for the purpose of creating a similar four unit infill re-development application for a single existing lot at 654 Rockway Drive (Submission No.: B 2021 to B 2021-023) (Committee Decision Attached at

Tab “4”). In that case the property was already zoned R-4 Residential as-of-right but the Committee concluded that it was “not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood”, which is required by Sections 4.C.1.8 and 4.C.1.24 of the City’s Official Plan.

Impacts on Adjacent Properties

While Mr. Dorfman has opined that R3 zoning and a three (3) unit development could represent maximum intensification of the Subject Property, there are a number of physical impacts on the adjacent properties which would prohibit a four (4) unit development, and may also prohibit even a three (3) unit re-development.

Change in Grade

Significant re-grading is proposed across the Subject Property to accommodate the re-development proposal. As detailed on the Existing Condition and Removal Plan (Sheet 1) contained in the Functional Servicing and Storm Water Management Report, the owner is proposing to remove the retaining wall along the entirety of the frontage of the Subject Property on Westwood Drive, and a portion of the wall located on 396 Westwood Drive. We understand that this removal is for the purpose of lowering the grade of the Subject Property by approximately 1-1.25 metres towards street level, to accommodate the additional building lots, and that the result of this change in grade will necessitate the removal of numerous mature trees. Our Client does not consent to the removal of any portion of the retaining wall on their private property (see attached 1986 Survey at **Tab “5”**). The chain link fence shown on the survey marks the property boundary and the southern face of the wall is clearly located on the 396 Westwood Drive lands. They are also opposed to the removal of the portion of the wall on City property, or significant modifications to the grading on the sections of the Subject Property that support their wall, as they are concerned that this will negatively impact the integrity of their remaining portion of the wall and may result in drainage issues and the further loss of trees as detailed below.

Drainage

On page 29 of the IBI Planning Justification Report, it is suggested that “Additional stormwater controls are not required due to the relatively small increase in imperviousness and the maintenance of existing drainage patterns.” In light of the significant grade change proposed, it is hard to understand how existing drainage patterns can be maintained, and the suggestion that there is only a small increase in imperviousness is misleading.

On page 29 of the Planning Justification Report, IBI states that the average imperviousness of the development lands will increase from 13% to 18%. These percentages are detailed in the Imperviousness Analysis on pages 3 and 4 of the Functional Servicing and Storm Water Management Report. IBI arrives at these percentages by averaging the impervious area of the entire site (mapping reproduced below), including the woodlot at the rear of the site which will be conveyed to the owner of 787 Glasgow Street, rather than the area in which the new lots are proposed.



In calculating the average existing imperviousness, IBI includes the sheds and a pool, which are additional impervious uses which may be deployed on any of the proposed four lots. Using the before and after percentage of imperviousness based on the size of the entire property (including a woodlot that will not be developed and will be conveyed to a third party) does not accurately gauge the impact on drainage caused by the development at the front of the property, where only minimal setbacks from the adjacent properties to the North and South are proposed. The 13% and 18% before and after averages identified by IBI were generated by dividing the 0.05 ha of predevelopment impervious areas and 0.07 ha post development impervious areas by the total 0.38 ha Subject Property. The problem with this approach is that it does not gauge what percentage of the development area will be impervious after the woodlot has been transferred to another owner.

The table from page 11 of the IBI Planning Justification Report reproduced above, identifies the rear woodlot portion of the Subject Property as being 1,785 square metres, or approximately 0.1785 ha. If 0.1785 ha is subtracted from the Subject Property's total 0.38 ha, it leaves 0.2015 ha for the four proposed development parcels, and an average coverage rate of 34% ($0.07\text{ha} \div 0.2015$) for this area. Even with the inclusions of the sheds and pools present on the Subject Property, there is an increase in the average impermeability from 13% to more than double that, at 34% for the four proposed development lots.

It is not clear that the proposed development can account for these additional flows, especially where the grade is changed dramatically, and only minimal setbacks are provided for. Our Client does not consent to accepting additional stormwater flows from the Subject Property as a result of a failure to account for the additional impermeable area and its proximity to the property line. Our Client's driveway also slopes down eastward from Westwood Drive and is more than 1.5 meters below the retaining wall along their northerly property boundary (lower than street level). With the new residence proposed with only a 1.5 meter setback (as compared to the existing nearly 14 meters of setback), and with the proposed removal of a portion of the retaining wall, creating a slope down near the mouth of the driveway entrance, there is a serious risk of excess stormwater flows flowing down toward the foundation of our Client's home. We have attached photos of the driveway and wall area for your reference at **Tab "6"**.

Loss of Mature Trees

It is clear from the Existing Condition and Removal Plan, as well as the proposed removal of the retaining wall and respective grade change, that numerous mature trees are proposed to be removed. To

accommodate the three additional driveways off of Westwood Drive, and as a result of the minimal separation between the proposed residences, there is also very little room to reinstate any equivalent sized trees and it is not clear from the Arborists Report how the significant loss of trees will or can be addressed through new plantings. As a result, the Subject Property will no longer have the wooded character of the adjacent properties along Westwood Drive and Glasgow Street.

Page 8 of the IBI Arborist Report indicates that they have surveyed a total of 122 trees on the Subject Property and another 21 on adjacent properties. They indicate that 70 trees will be preserved on the woodlot (conveyed to 787 Glasgow Street), and only 26 on the proposed development lots. There are 27 proposed tree removals on the Subject Property, only three of which are recommended to be removed due to their alleged hazard status.

Based on IBI's survey, the proposed development would see more than half of the 52 trees in the area of the proposed development lots removed. This is not in keeping with the character of the adjacent lots along Glasgow Street and Westwood Drive, and the preservation of the Green Belt a condition to the Munk Subdivision approval. Our Client is also concerned that these are not all of the trees that will be affected, and that some have been missed in the IBI survey. Our Client is also concerned that additional trees will be damaged and lost as a result of the significant change in site grading, along with the proposed removal of the retaining wall. Our Client has identified their further concerns regarding the loss of boundary trees, including as a result of the proposed removal of the wall (see attached Annotated Mapping from Arborists Report at **Tab "7"**).

In addition to the trees located on the Subject Property, on page 5, IBI notes that there are several trees located in close proximity to the property boundaries which are proposed to be removed. They have assumed that any shared tree located on the property boundary or within 0.3 meters will, in accordance with the *Forestry Act*, require written approval from all property owners prior to initiation of any work and tree removals. To be clear, our Client's consent was never sought by the developer and will not be granted for the removal of any shared tree protected by Section 10 the *Forestry Act*, nor the removal or damage to any trees on their property as a direct or indirect result of the proposed development, nor the removal of any tree which would destabilize the wall.

It is also unclear to our Client how the minor setbacks proposed could be accomplished without the removal of these trees, including as an indirect effect of the removal of the retaining wall.

Loss of Screening and Privacy

As a result of the loss of more than 50% of the trees across the area of the proposed development lots, there will be a loss of screening between the Subject Property and the adjacent properties. This will be exacerbated by the limited setbacks proposed. In addition to the loss of trees, other vegetation will also be removed as part of this process, and the lowering of the grade on the Subject Property will only exacerbate this loss of privacy. This impact is especially pronounced for our Client's property, as the cedar hedge along the property line is proposed to be removed. Their home faces north and would face a new dwelling unit with a setback of only 1.5 meters, in contrast to the existing approximately 14 meter setback. Further to this, our Client's property is the southern most lot from the Munk Subdivision and it is connected to the balance of the Green Belt forest via the Subject Property. As a result of the tree and other foliage removals proposed combined with the minimal 1.5 meter setback proposed on the southern side of the Subject Property, our Client's property would be effectively cut off from the Green Belt.

Precedent

In 2011, the City of Kitchener's Committee of Adjustment refused to grant the necessary permissions to redevelop 814 Glasgow Street (a similar wooded estate lot approximately 100 metres from the Subject Property) from a single residence to three residential lots. The decision of the Committee was appealed to the Ontario Municipal Board (the "**Board**"), and the appeal was dismissed (Decision attached at **Tab "8"**). In dismissing the appeal the Board made the following findings based on the expert planning evidence of Mr. Dorfman, which remain applicable:

...The Provincial mandate for intensification is not a licence [*sic*] to abandon sound planning principals [*sic*], or to diminish appropriate land use planning standard in search of more density. Alternatively, intensification requires sensitive design as stated in the City of Kitchener's Official Plan that "shall be consistent with the massing, scale, design and character of that neighbourhood and both appropriate landscaped areas and appropriate parking areas are provided."

The Board would note that the existing zoning standards of the City of Kitchener covering this area are substantial in comparison to contemporary residential zoning standards found to the immediate west. However, the facts in this case are that the standards established by Zoning By-law 85-1 of the City of Kitchener being "Residential Two Zone (R2)" are minimum standards when compared to the development that has already occurred in this area and provides a suitable regulatory framework for the intensification of this area. The Board finds in this case that to further reduce the lot area standard for Lot A would not result in appropriate development consistent with the form of development that characterizes this neighbourhood of the City of Kitchener, and that on this basis the relief sought for proposed Lot A is not minor and would not meet the intent and purpose of the City of Kitchener's Official Plan and Zoning By-law and would not result in the appropriate development of this area...

As noted by the Board in their decision, and in the recent decision by the City's Committee of Adjustment refusing to grant a similar 4 lot infill application, intensification "shall be consistent with the massing, scale, design and character of that neighbourhood".

Conclusion

Our Client is not opposed to reasonable development, but not at the expense of sound planning principles. Our Client therefore asks that the City deny the zoning by-law amendment and consents sought to permit a four (4) lot development, as this clearly does not represent good planning in the public interest.

In a spirit of neighbourly co-operation, our Client would, however, be willing to meet with the owners of 400 Westwood Drive and other impacted property owners to see if a more appropriate scale development could proceed which addresses their concerns with respect to grade change, drainage, the loss of trees, screening, and the other physical impacts to their property. Our Client therefore asks

that sufficient time be provided between the neighbourhood information session and the Committee and City Council decisions so that these discussions may take place.

Yours very truly,

Gowling WLG (Canada) LLP



John S. Doherty

JSD:hp
Encl.

cc: City of Kitchener Clerk (clerks@kitchener.ca)
Jacqueline Armstrong Gates, Gowling WLG (Canada) LLP
Client

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TAB 1

TAB 2

11 Dayman Court,
Kitchener, Ontario.
October 22, 1999.

Councillor Chris Weylie,
West Ward,
279 Glasgow Street,
Kitchener, Ontario.

Dear Councillor Weylie (Re: Committee of Adjustment Application No. B 61/99),

Thank you for representing me at the Committee of Adjustment meeting on Tuesday, October 26th. I had a hysterectomy on Thursday, October 14th so am unable to personally attend the meeting or to arrange for an informed neighbourhood representative to attend on my behalf on such short notice.

The severance of Dr. and Mrs. Nurse's property was only brought to my attention on Wednesday, October 20th by Dr. Nurse. Over the last two days, I have discussed the current situation with both the Nurses and the Planner involved, Zyg Janecki.

There is a negotiated **Plan of Subdivision** from 1978/79 covering the original development of the Munk property from which this current Nurse property derived. I was the neighbourhood contact for the original **Plan of Subdivision** and am objecting both about

1. the current proposed severance

and

2. the process under which this severance is being considered.

1. Current severance:

- The negotiated settlement for the **Plan of Subdivision of the Munk property** (see attached sheets) came with the following clause:

"4. Existing Conditions

The property being subdivided is at the corner of Glasgow Street and Westwood Drive. The property will retain its Township Residential zoning which requires lots with a minimum area of 0.20 hectares (one-half acre). The surrounding property is residential with large lot development along Glasgow Street and Semi-Detached development along Westwood Drive. The lot is heavily wooded."

The intent of this clause was to preserve the nature of development **within the woods** to be similar by zoning category to adjacent wooded properties; this was protective of adjacent, or like, treed properties in that it preserved the nature of treed development, not setting a precedent for higher zoning in future development.

While the final original diagrams do not indicate a severance line for the intended (even at that time) eventual subdivision of the block of land now represented by the Nurse property, it was understood by both the developer and neighbourhood that this would likely take place sometime in the future at a time when the (future) landowner decided how to split the property. There was an understanding that the neighbourhood would not have grounds for objecting to such a severance should it proceed exactly along the lines of the original **Plan of Subdivision** because of the precedent set by the original subdivision. I have

steadfastly reminded old, and informed new, neighbours of this precedent and implications in several decades of neighbourhood work.

The zoning categories have changed through the years, but the developed lots from the original Munk subdivision all now have an R2 zone (10,000 square feet minimum; 0.223 acres), although they, like the surrounding large treed lots, greatly exceed this minimum, i.e. 1/2 acre lots are 21,780 square feet in size and many nearby properties are at least 1 acre in size.

Zoning would be consistent with adjacent zoning if it was R2; therefore, the analogous appropriate zoning for a severance of the Nurse property should be an R2 (10,000 square feet) not an R3 (minimum 4,886 square feet or 0.1 acres).

Implications:

- i. The current size (8,961 square feet; 0.2 acres) of property to be created by the severance is closer to an R2 zone, but creates a property that is out of character by R3 zoning category with adjacent treed properties, including those created and developed by the original Plan of Subdivision. It would set the precedent for implementation of treed development at an even smaller size throughout the area.
- ii. The current application for severance should be rejected, in favour of a severance that creates an R2 lot. This would have the end result of following the intention of the original Plan of Subdivision. The neighbourhood would be supportive of an expeditious processing of any zone change application.
- iii. The development under an R2 zone may **not only save trees** in the current development (i.e. factors determining base of house and effect on trees will be other than those of house size for R2 versus R3 zoning: soil conditions, drainage, tree loss, etc.), **but would not set a detrimental precedent** for future development. It would be consistent with intent specified in the negotiated Plan of Subdivision.

2. Process for this severance:

Given this is a last implementation of intent of the Plan of Subdivision which created the Nurse property and

the nature of the proposed severance, which departs from the intended character of development under the Plan of Subdivision,

the current process/framework (under the Committee of Adjustment) for considering this changed intention of implementation of the original severance is inappropriate.

- i. The circulation was restricted to only those within a 200 foot (60 meter) radius of the Nurse property.
- ii. I live two properties away from the 200 foot limit (well within the 120 meter limit for Planning process circulation), and did not receive a circulation.
- iii. I also did not receive notification as the original neighbourhood negotiator for the Plan of Subdivision which I would have under the Planning process.

These three facts resulted from the consideration of the subdivision as a straight forward severance.

Had the departures from intent of original Plan of Subdivision been noted by Planning Staff, and a Planning framework been implemented, I would have been included in the original circulation as would others in the neighbourhood who were founding participants in the original Plan of Subdivision. We have had relatively little change in residents of the adjacent lots in the over two decades of implementation of the Plan of Subdivision.

Concluding requests as a result of the above considerations:

That you reject the current proposal for severance.

and either

1. Postpone approval of any severance, pending presentation of a severance which is in character (R2 zoning) with the intent of the original Plan of Subdivision.

OR

2. Refer the proposal of subdivision/severance to a review through the Planning process, where the changed nature in intent from the original plan may be considered by a broader spectrum of residents, or the neighbourhood can support a zone change process to R2 zoning, to maintain the intent of the original Plan of Subdivision. (Please note, that the actual 0.2 lot size is closer to an R2 minimum of 0.223 acres than the R3 minimum of 0.1 acre; might the current proposed severance be viewed as an aberrant R2, if this was supported by consensus of the neighbours as a desirable feature to protect the future of precedent for adjacent trees.)

Respectfully,



Judy-Anne Chapman, PhD
Coordinator for Green Belt
Neighbourhood Association

CC Dr and Mrs. W. Nurse (Applicant)
Zyg Janecki (Planner)
Residents within 200 feet of 400 Westwood Drive

11 Dayman Court,
Kitchener, Ontario.
November 10, 1999.

Janet L. Billet,
Secretary,
Committee of Adjustment,
Department of General Services and City Clerk,
City Hall, 2nd floor,
200 King Street West,
Kitchener, Ontario.

Re - Submission No.: B61/99
Applicant: Elizabeth and William Nurse

In your notification of November 5, 1999, you state that I am entitled to receive notice of any changes to the conditions of the Provisional Consent if I make a written request to be notified of changes to the conditions. Please accept this letter as such written notification. I am particularly concerned about any changes to condition 7. about the Tree Preservation/Enhancement Plan.

Sincerely,



Judy-Anne Chapman, PhD

cc Councillor Chris Weylie

conditions within one year of the date of giving notice of this decision

Section 23 of the Planning Act, the date of the decision is

Supplemental

TAB 3

Mark L. Dorfman, Planner Inc.

219 - 50 Westmount Road North, Waterloo, ON, N2L 2R5
Telephone: 519-888-6570 ~ Facsimilie: 519-888-6382 ~ E-mail: dmark@mldpi.ca

October 15, 2021

**Mr. John S. Doherty,
Gowling WLG (Canada) LLP,
345 King Street West,
Suite 600,
KITCHENER ON N2G 1B8**

Dear Mr. Doherty:

**Subject: City of Kitchener
Zoning Bylaw Amendment Application
ZBZ21/012/W/ES
400 Westwood Drive**

**Planning Opinion provided to:
Goodwin/Jaslinskas 795 Glasgow
Sahinovic 396 Westwood**

In response to your request, I provide my Planning Opinion regarding the subject application to amend the City of Kitchener Zoning Bylaw 85-1. The Application was made by Douglas W. Stewart (IBI Group) on behalf of the Subject Property owner, Zakia Kardumovic.

In preparing this Planning Opinion, I have reviewed the following documents:

Application For Zoning By-Law Amendment - August 5, 2021

Planning Justification Report - August 5, 2021

City of Kitchener Official Plan

City of Kitchener Zoning Bylaw 85-1

Registry information.

As well, I reviewed aerial photography of the subject neighborhood and undertook a drive-by of the Subject Property and the neighborhood.

My planning opinion is based on the information at hand. My focus is on the Kitchener Official Plan and the Kitchener Zoning Bylaw. In my opinion, it is important to recognize that the municipal public interest is just as important as the provincial interest at this time.



Neighbouring Properties

The interested neighbors own the following properties in relation to the Subject Property:

795 Glasgow: located adjacent to the north at the corner of Westwood
396 Westwood: located adjacent to the south

Proposed Development

The Subject Property is legally described as Part of Lots 1 and 2, Plan 1536; Part 1, Reference Plan 12471.

The Subject Property is located on the east side of Westwood Drive, south of Glasgow Street.

According to the Application, the Subject Property has a land area of 3,854 square metres (0.385 ha), with road frontage of 50.0 metres and a depth of 78.1 metres.

The Applicant proposes to create four (4) separate lots fronting on Westwood Drive, for residential purposes and to sever and convey the rear 0.179 hectare as a lot extension to 787 Glasgow Street. (The Planning Justification Report erred in stating the conveyance is to 787 Westwood).

The Application is to amend the Zoning Bylaw for the four proposed lots from "Residential Two R-2" to "Residential Four R-4 - Special" and to amend the proposed lot extension from "Residential Two R-2" to "Open Space P-2".

The future proposed severed lots are intended to have the following areas and frontages:

Lot 1: 627.7 m² area with 15.3 metres frontage
Lot 2: 477.3 m² area with 11.6 metres frontage
Lot 3: 477.3 m² area with 11.6 metres frontage
Lot 4: 470.1 m² area with 11.5 metres frontage

The Applicant proposes to vary the "R-4" zoning for Lot 1 by establishing a Minimum Rear Yard of 23.8 metres instead of 7.5 metres and for Lots 2, 3 and 4, a Minimum Rear Yard of 16.5 metres instead of 7.5 metres.

Neighboring Properties

Both of the properties of concern are zoned as "Residential Two R-2".

These two properties and the Subject Property were originally established in the late 1970s and were later reconfigured by consents. The area of the original subdivision plan consisted of four lots and now, within the same land area, there are five lots (Two on Glasgow, two on Westwood, and one on Dayman). The Applicant intends to further subdivide the original plan area and establish a total of eight lots Two on Glasgow, five on Westwood, and one on Dayman.



Planning Analysis

1. The Subject Property is designated as "Low Rise Residential" on Map 3 Land Use in the Kitchener Official Plan. The neighboring properties are located in the same designation. Section 15.D.3.8 of the Official Plan provides that "a full range of low density housing types" are accommodated in this Designation.
2. The Policy provides that the "maximum *net residential density*... will be 30 units per hectare."
3. The Applicant's Planner states on page 24 of the Planning Justification Report, that the net residential density within the "Low Rise Residential" Designation in the Kitchener Official Plan is 30 units per hectare. The Planner concludes that the Subject Property can be developed for 11 Lots. I disagree. This policy statement is correct, but the application of this density is misleading. This policy should not be applied to individual lots that are the subject of development applications. This net residential density must be applied to all lands within the area including half of the road rights-of-way.
4. I undertook a preliminary calculation of 11 existing Lots in the "R-2" Zone and in the "Low Rise Residential" Designation in the local area. The resulting net residential density is in the order of 2.24 units per hectare. If the townhouses located on the west side of Westwood and the smaller lots further south on Westwood are included in my calculation, the density is higher, but not close to reaching 30 uph.
5. The Applicant is applying for "R-4" zoning on the proposed 2,069 square metre retained lot. Without variances, this retained lot could be divided into 5 lots (2,069/235) with minimum lot frontage of 9 metres in "R-4". In "R-4", the development would consist of 5 single detached dwellings or 6 duplex lots, as-of-right.
6. I conclude that the expectation of 5 single-detached lots in this location is inappropriate in the context of the existing lot pattern in the Glasgow area.
7. An alternative form of infill development could zone the retained lot as "R-3". In this zone, 3 single detached dwelling Lots with a minimum lot width of 13.7 metres could be developed.
8. Historically, the existing "R-2" lots on Glasgow and Westwood are part of the same community. As-of-right, the Subject Property can be divided into two single-detached dwelling lots under the "R-2" Zone.
9. In my opinion, the intensification of the Subject Property (hypothetically from 2 to 3 lots) is good planning only if it zoned as "R-3". This is a reasonable transition from the "R-2" lots to the "R-4" lots located further south on Westwood.



10. In my analysis, I have not assessed physical impacts resulting from the intensification of the Subject Property. I am aware of the immediate concerns raised by the neighbours. If the City of Kitchener is considering the zoning amendment, I recommend that prior to any conclusion by staff and Council, the issues regarding lot grading and storm water management, including any changes in retaining walls, must be first understood and mitigated. As well, the historic woodland that has been fragmented by development needs to be carefully assessed in advance. The trees and the roots of trees on the Subject Property and on the neighboring properties are integral to the aesthetic, visual amenity in the neighborhood. Tree saving and enhancement of species also need to be firmly established prior to any consideration of the zoning application.
11. I caution the City of Kitchener to not amend the Zoning Bylaw, then later deal with the above impacts as site plan issues, without consultation with the neighbors in the community.

I am pleased to provide this independent and objective opinion with the expectation that Kitchener staff and Council will carefully consider the community planning implications arising from the proposed development in this application.

Yours truly,



Mark L. Dorfman, F.C.I.P., R.P.P.



TAB 5

TAB 6



View of wall and common boundary area, looking out of driveway toward Westwood



Further back view of wall and common boundary area, looking out of driveway toward Westwood



View of wall and common boundary area from the second story porch at the front of our house



View of lower section of wall, further into property and showing chain-link fence (property line) embedded among common boundary and cedar hedge clearly evident as part of common boundary



View above wall, showing height of some of the trees within the common boundary



View looking down driveway into the property from Westwood sidewalk with chain-link fence post (property line) visibly embedded in common boundary area



View looking down driveway at wall from Westwood street side with chain-link fence post (property line) visibly embedded in common boundary area



View of the front side of our house, and front door facing directly towards wall and boundary with subject land



Additional view of the front side of our house showing full Eastern extent of house and porch

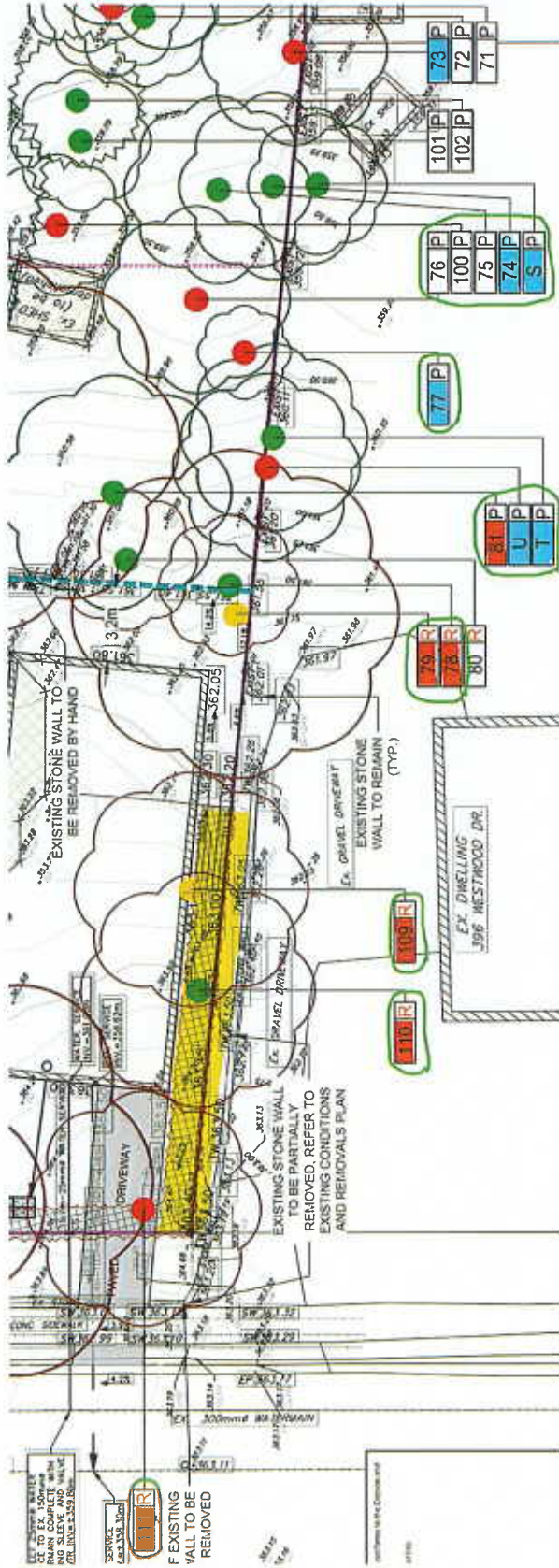


View showing existing forested frontage at subject property 400 Westwood and some of the forested side of 795 Glasgow (forest fronting onto street continues from our property which is not shown on the right all the way to the Northern end of Westwood and wraps around running east all the way down Glasgow to Knell)



Satellite image showing the subject land, 400 Westwood (outlined red) in context of surroundings and designated "Green Belt Neighborhood" (outlined green)

TAB 7



Circled in green – represents all trees which are at risk of collapse or damage from excavation along boundary, grading modifications, removal of retaining wall or removal of nearby/adjacent trees

Highlighted blue – represents all trees which are part of the shared boundary and requiring approval for removal (many of which are incorrectly identified in Arborist report as not being a part of shared boundary)

Highlighted orange – same as above highlighted blue, but in addition; trees for which removal would cause a risk of collapse of the retaining wall

Highlighted yellow – large, dense and mature (>20y.o.) cedar hedge which exists along shared boundary for which removal will also require written approval

TAB 8

ISSUE DATE:

July 08, 2011



Ontario

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

PL110214

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant / Appellant: Chris & Rochell McNabb
Subject: Consent
Property Address/Description: 814 Glasgow Street
Municipality: City of Kitchener
Municipal File No.: B-2010-046
OMB Case No.: PL110214
OMB File No.: PL110214

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant / Appellant: Chris & Rochell McNabb
Subject: Consent
Property Address/Description: 814 Glasgow Street
Municipality: City of Kitchener
Municipal File No.: B-2010-050
OMB Case No.: PL110214
OMB File No.: PL110215

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant / Appellant: Chris & Rochell McNabb
Subject: Minor Variance
Variance from By-law No.: 85-1
Property Address/Description: 814 Glasgow Street
Municipality: City of Kitchener
Municipal File No.: A-2011-017
OMB Case No.: PL110214
OMB File No.: PL110216

APPEARANCES:

Parties

Chris & Rochell McNabb

City of Kitchener

Counsel

Karl D. Jaffary Q.C.

Steve Ross

Region of Waterloo

Debra Arnold

Mr. Doug Good

John V. Cosman

DECISION DELIVERED BY J. P. ATCHESON AND ORDER OF THE BOARD

This was a hearing in the matter of appeals by Chris and Rochell McNabb from decisions of the City of Kitchener, Committee of Adjustment, that refused to grant consents for two residential lots, together with the Committee of Adjustment's decision to refuse to authorize a minor variance from Zoning By-law 85-1 of the City of Kitchener for proposed Lot A, all being Committee of Adjustment files (B-2010-046, B-2010-050 and A-2010-017).

The lots proposed by the Appellants are located on a property known as 814 Glasgow Street in the City of Kitchener. Proposed Lot A is a corner lot at the intersection of Glasgow Street and Silvercrest Drive and would have a frontage of some 26.131 metres on Silvercrest Drive and an overall lot area of some 740.9 sqm. Proposed Lot B would have a lot frontage of some 25.042 metres on Glasgow Street and a lot area of some 929.05 sqm. The retained lands are occupied by an existing residential dwelling, a detached garage and private water and sewage systems. The retained lot would have a frontage of some 24 metres on Silvercrest Drive and a lot area of 2115.1 sqm.

The variance requested applies to Lot A and seeks relief from Section 36.2.1 of Zoning By-law 85-1 of the City of Kitchener to permit a lot area of 740.9 sqm whereas the Zoning By-law 85-1 requires a minimum lot area of 929 sqm. The proposed lot configuration is set out at Exhibit 4, Tab D.

At the commencement of the hearing Mr. Cosman, Counsel for Mr. Good a neighbour, sought party Status. Mr. Good is a resident who lives across the road from the subject property. The Board, with the consent of the other parties, granted Mr. Good party status.

Counsel for the Region of Waterloo advised the Board that the Region took no position with respect to the matters other than to indicate that if the Board was to find in

favour of the Appellant and approved the consents and variance, that the Region would request the inclusion of conditions as set out at Exhibit 2. Similarly, Counsel for the City of Kitchener advised that the City took no position on the matter but requested that if the Board was to find in favour of the Appellant, that the conditions recommended by staff to the Committee of Adjustment as set out at Exhibit 8, be imposed.

All parties on consent indicated that in the event that the Board were to find in favour of the Appellant, that the conditions of the Region and the City were appropriate, bearing in mind the concerns that would be adduced by Mr. Good's witnesses with respect to the City's conditions.

CONTEXT AND THE EVIDENCE

The subject lands consist of a 0.4 hectare residential corner lot. Currently the property is developed with a large single family home (approximately 350 sqm) that sits diagonally and generally in the middle of this well treed lot. The open amenity space associated with the existing home is predominately to the north as shown on Exhibit 6. The property has a frontage of some 53.18 metres on Silvercrest Drive (Waterloo) and a flankage of some 74.37 metres along Glasgow Street (Kitchener) and derives its current access from Silvercrest Drive. The east side of Silvercrest Drive forms the municipal boundary between the Cities of Kitchener and Waterloo. There is a significant change in grade between the road way and subject property along Glasgow Street of about 3 metres, and as such the City of Kitchener when it reconstructed Glasgow Street installed a retaining wall and steel road barrier as shown on Exhibit 6 along a major portion of the northern edge of Glasgow Street right-of-way that abut the subject property as shown on Exhibit 6.

The surrounding land uses consist of a vacant large single family lot to the immediate north, to the west on the opposite side of Silvercrest Drive is a single family residential development on smaller lots (15.3 meter frontages) in the City of Waterloo. A 53-unit Townhouse development exists to the south west, diagonally opposite to the subject lands. Lots to the east and southeast along Glasgow Street consists of larger estate lots which range in size from 0.2 ha to 0.83 ha and with frontages varying from 31.6 to 63.9m. These lots generally consist of larger single family homes in a variety of

housing styles nestled into the former woodlot that covered this area. By all accounts this is an enclave of upscale residential homes in the City of Kitchener. The area by all accounts is stable with some redevelopment of new homes on existing lots. In 2000 one residential lot of some 0.09 ha in area was created by consent some 600 metres to the east of the subject property on the north side of Glasgow Street. This severed lot is located adjacent to a condominium project situated on Briar Patch Lane. Residential lots of similar character but slightly smaller in size exist to the immediate north on Maple Hill Drive. The Maple Hill area gains access from Silvercrest Drive.

The subject lands are governed by a number of both provincial and local planning policy regimes being:

1. The 2005 Provincial Policy Statement;
2. The Growth Plan for the Greater Golden Horseshoe Area;
3. The Region of Waterloo Official Plan which designates the City of Kitchener within the "City Urban Area" (Section 7.3.1.1);
4. The City of Kitchener Official Plan designates the site "Low Rise Residential"; and
5. The new adopted but not yet approved Official Plan for the Region of Waterloo designates the site "Built -Up Area of the Urban Area Neighbourhood".

The planning witnesses all generally agree that the Provincial Planning documents sanction the proposed development on this site and encourage that such urban sites be considered as candidate areas for redevelopment and intensification. The planners also agree that the form and extent of intensification is governed by the policy regime of the in force City of Kitchener's Official Plan and Zoning By-law.

The site is currently zoned by Zoning By-law 85-1 of the City of Kitchener as "Residential Two Zone (R2)" which would permit among other things single-family dwellings on lots with 24 meter frontages with a minimum lot area of 929.0 sq metres. This zone also permits Duplex Dwellings and Residential Care Facilities under the same regulations.

These facts are not in dispute.

The Board, during the course of this two-day hearing, heard from four lay witnesses and the following qualified professionals:

1. Mr. Sandro Bassanese, a qualified Land Use Planner and Urban Designer employed by the City of Kitchener as an Urban Designer, testified under summons regarding the City staff's planning report on the Appellant's applications to the Municipality;
2. Mr. Scott J. Patterson, a qualified Land Use Planner, was retained by the Appellant in the summer of 2010 to assist them in the preliminary planning evaluation of the site and to assist his client in their applications to the Municipality's Committee of Adjustment;
3. Mr. Mark L. Dorfman, a qualified Land Use Planner, was retained by Mr. Good to review the documents filed with the original application as amended and to provide his opinion on the merits of the applications now before the Board.

Mr. McNabb, is the owner/resident with his wife, of the subject property, and is a successful developer. He spoke in favour of the project and advised the Board how he felt the site could be sensitively developed in keeping with the character of the area. The other three lay witnesses, all of whom live in the immediate neighbourhood, testified in opposition to the proposed development raising a list of concerns. However, in the Board's finding, the salient concerns expressed by these residents may be summarized as follows:

1. The proposed development is not in keeping with the general character of the area;
2. The loss of trees on the property;
3. The changes in the existing views of the streetscape along Glasgow Street;
4. The driveway access from Lot B to Glasgow Street is unsafe;

5. The loss of privacy due to change in elevation and proximity of the proposed new homes to the house on the existing lot, and its proximity to Mrs. Kan's home to the immediate east;
6. The proposed development is an over development of the site, resulting in an irregular and chaotic lot pattern;
7. The proposed development will result in a loss of many trees on the site which they view as a negative environmental impact.

There is also general agreement among the planning witnesses regarding the applicable policies of the City of Kitchener Official Plan to be considered in evaluating this proposal. However, their planning opinions vary as to whether the proposal now before this Board and the proposed implementing documents and conditions recommended by the Region and the City of Kitchener's staff conform to these policies. The Planning witnesses also generally agree that the Provincial Policy regimes encourage more compact built form within the built up area of the City of Kitchener and would encourage the intensification of this site. They also agree that the built form and the density of intensification for this site are to be left to the determination of the City through its planning policy documents. They disagree that the Appellant's applications met the Official Plan tests, the criteria for the subdivision of land as set out in Section 51 (24), and the four tests for a minor variance set out in Section 45(1) of the *Planning Act*.

It is clear to the Board the matters in the case are local in nature and would not offend any Provincial policies' directions. Further the City of Kitchener Official Plan encourages in Part 2, Section 1.5:

The creation of additional housing in existing developed areas, through conversion, infill and redevelopment as an appropriate response to needs and to make better use of existing infrastructure and public service facilities.

However, this is not an outright sanction to new more intense development as Section 1.5.3 of the Kitchener Official Plan makes it clear that:

Any new residential buildings, additions to existing buildings, modifications to existing residential buildings and conversions in predominantly low density neighbourhoods shall be consistent with the massing, scale, design and character of that neighbourhood and both appropriate landscaped areas and appropriate parking areas are provided.

Similarly when considering planning approval for a minor variance, Section 1.6 of the City of Kitchener Official Plan requires among other things that:

- i) Any new buildings and any additions and/or modification are appropriate in massing and scale and are compatible with the built form and character of the neighbourhood.
- ii) Front yard setback reductions may be considered for new buildings in established neighbourhoods provided the front yard setback is similar to adjacent properties and supports and maintains the character of the streetscape
- iii) New buildings, additions, modifications and conversions are sensitive to the exterior area of adjacent properties and that appropriate screening and /or buffering is provided to mitigate any adverse impacts.

It was Mr. Patterson's position that the revised application, when considered in light of the conditions being recommended by City staff, would meet the objectives of the Official Plan and that his client through his Preliminary Vegetation Management Plan, Exhibit 5 and Preliminary Grading Plan, Exhibit 6 and proposed building Elevation Plan, Exhibit 7 had on a *prima facie* basis established that the property can be developed as proposed in conformity with the applicable policies of the City's Official Plan and would not offend the criteria for subdividing lands prescribed by the *Planning Act*.

Mr. Dorfman on the other hand opined that the grading as set out in the Preliminary Grading Plan, Exhibit 6, would require either the filling of Lot B or the creation of a bridge in order to access Glasgow Street. He demonstrated his concerns with several elevation cross sections through this proposed lot. He opined that to construct a new home of the elevation proposed on Lot B would result in overview issues with the existing home on the site. He noted that in order to consummate the development plan approximately 40% of the existing dwelling's footprint (the Pool House) would have to be demolished and the proposed western lot line needed to be adjusted to provide the minimum separations required by the Zoning By-law and that this lot configuration was not good planning and would not conform to the applicable

Official Plan policies found in Sections 1.5 and 1.6. It was his evidence that the proposed sighting of the buildings on the proposed lots would create oversight issues with the existing dwelling on the site, did not conform to the policy directions of Section 1.6. iii), and that to create oversight issues was not good planning. It was his opinion that the configuration of the proposed lots was irregular and "Chaotic" and did not represent orderly development of the site. He further, through his study of lot sizes for various corridors in the area, opined that the lot pattern being proposed was not consistent with the lot pattern found in the area, that proposed Lot A was one of the smallest lots in the area when compared to the lots situated to the east along Glasgow Street and would not meet the applicable test of Section 51(24) of the *Planning Act* namely that the proposed lots do not meet the intent of the City of Kitchener's Official Plan and that the dimensions and shape of the proposed lots are not in keeping with the existing lots found in the area.

Mr. Patterson opined that the proposed lots, with the exception of Lot A, meet all of the requirements of the Zoning By-law and that the reduction in this lot area was the result of requests by city staff to maintain the existing private services (the Well) on the retained lot. He opined that the lot configuration was the result of his client's attempt to preserve the trees on the site, a portion of the existing dwelling, and the private services on the site and met the requests of City staff. He opined that the reduction in only the Lot area of Lot A was minor when considered in relation to the smaller lot sizes found to the west and that this site and proposed development provided an appropriate transition from the smaller lots to the west in relation to the larger lots found to the east along Glasgow Street. Mr. Dorfman, on the other hand, opined that there was no compelling planning reason to create a transition where one is not required. He noted the Glasgow neighbourhood is intact and that the existing lots in this area have existed for more than fifty years without any significant fragmentation.

Mr. Sandro Bassanese testified that in his opinion the conditions being recommended by City staff would protect much of the vegetation on the site. He anticipated from the Preliminary Vegetation Management Plan, Exhibit 5, that eight mature maple trees would be lost as a result of the development pattern being proposed. Mr. Dorfman believes that more trees may be affected. Mr. Bassanese freely admitted, under cross examination, that the posting of performance securities and the ability for the City to enter upon the site to enforce the proposed conditions were

important requirements of any agreement sanctioning the development of the property. The Board has no doubt that the City can develop an appropriate subdivision agreement to protect the public interest in this case and further that such an agreement should and would be a requirement for any redevelopment of this site that considered intensification. However, the test in the first instance is whether the revised proposed lotting pattern represents good long-term planning for this area of the City of Kitchener.

FINDINGS AND CONCLUSIONS

The Board, after carefully reviewing the evidence, the exhibits filed and the submissions made by the parties and the participants, makes the following findings.

It is clear that in recent years one of the major thrusts of Provincial Policy has been the more efficient use of our municipal infrastructure within urban areas and that intensification within urban areas is a significant tool in achieving this objective. There is no evidence that the City of Kitchener has not been or is not currently following this Provincial Policy direction. It is also equally clear that the subject site is an excellent candidate for redevelopment and that any form of residential redevelopment that increased the number of residential dwelling units in the site regardless of its density would qualify as intensification.

The Provincial mandate for intensification is not a licence to abandon sound planning principals, or to diminish appropriate land use planning standard in search of more density. Alternatively, intensification requires sensitive design as stated in the City of Kitchener's Official Plan that "shall be consistent with the massing, scale, design and character of that neighbourhood and both appropriate landscaped areas and appropriate parking areas are provided."

The Board would note that the existing zoning standards of the City of Kitchener covering this area are substantial in comparison to contemporary residential zoning standards found to the immediate west. However, the facts in this case are that the standards established by Zoning By-law 85-1 of the City of Kitchener being "Residential Two Zone (R2)" are minimum standards when compared to the development that has already occurred in this area and provides a suitable regulatory framework for the

intensification of this area. The Board finds in this case that to further reduce the lot area standard for Lot A would not result in appropriate development consistent with the form of development that characterizes this neighbourhood of the City of Kitchener, and that on this basis the relief sought for proposed Lot A is not minor and would not meet the intent and purpose of the City of Kitchener's Official Plan and Zoning By-law and would not result in the appropriate development of this area.

The Board appreciates that the lot pattern being proposed results from attempts to preserve the existing private infrastructure of the existing residence which in no small part results from the location of the existing residence and its private infrastructure on this property. However, in the Board's finding these efforts result in a lot pattern that is inconsistent and not compatible with the existing lot pattern in the area and does not maintain the character of the streetscape as required by the City of Kitchener's Official Plan.

The reduction in lot area in this case is the function of preserving an existing well on the retained parcel. The more compelling evidence is that full municipal services are available in this area requiring only normal extensions of this infrastructure. To create a new development scheme designed to avoid full municipal services in an urban area as part of a proposal to intensify the level of development on the site in the Board's finding is not good planning. In this regard the Board finds that the City staff had it right when they first considered the application and stated that:

Staff is of the opinion that this lotting pattern does not conform with the scale and character of the neighbourhood.

The Board finds that the minor changes to the lotting pattern of Lot A resulting in its reduced lot area to ensure that the existing well is on the retained property is an engineering and servicing issue but does not alter the fundamental soundness of staff's original opinion. Nor does the Board find that the Preliminary Vegetation Management Plan, Exhibit 5, the Preliminary Grading Plan, Exhibit 6 and proposed building Elevation Plan, Exhibit 7, demonstrate that this minor change to Lot A in any significant way alters the irregular lotting pattern or is an appropriate rationale to abandon the lotting pattern that characterizes the area. Nor does the Board conclude that the lotting pattern has been specifically changed to protect the trees on the site. Under a more regular and consistent lotting pattern the protection of the existing trees as much as possible would

still be an issue requiring the City's attention. The Board concludes that the revised lotting pattern does not conform with the lotting pattern currently found in the neighbourhood which constitute the scale and character of the Glasgow Street neighbourhood. Furthermore the reasons given by the Appellant's planning witness to change the lotting pattern to that being proposed are not compelling and do not represent good long-term planning for this area.

The Board in this regard prefers the opinions of Mr. Dorfman that the lot pattern will result in overview issues from the new lots to the existing dwelling that this situation could and should be avoided. This proposed lotting pattern in the Board's finding does not constitute good planning consistent with the requirements of the City of Kitchener's Official Plan Sections 1.5 and 1.6 and the criteria of Sections 51. (24). (c), (d) and (f) of the *Planning Act*. Furthermore, for the reasons indicated earlier in this decision the Board concludes that the minor variance for proposed Lot A does not meet the four tests of Section 45. (1) the *Planning Act*

Accordingly and for the reasons contained in the decision:

1. **THE BOARD ORDERS** that the appeal from the decision of the Committee of Adjustment of the City of Kitchener (File No.: (B-2010-046) is denied and the provisional consent is not to be given.

2. **THE BOARD ORDERS** that the appeal from the decision of the Committee of Adjustment of the City of Kitchener (File No. B-2010-050) is denied and the provisional consent is not to be given.

3. **THE BOARD ORDERS** that the appeal from the decision of the Committee of Adjustment of the City of Kitchener (File No. A-2010-017) is denied and the minor variance is not authorized.

This is the **Order of the Board**.

"J. P. Atcheson"

J. P. ATCHESON
MEMBER

TAB 4

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

CITY OF KITCHENER

The Committee of Adjustment held an electronic meeting this date, commencing at 10:00 a.m.

Present: D. Cybalski - Chair
B. McColl
J. Meader
S. Hannah
M. Kidd

Officials: J. von Westerholt, Senior Planner
S. Ryder, Traffic Planning Analyst
G. Stevenson, Senior Planner
C. Dumart, Planner
S. Goldrup, Committee Administrator
D. Saunderson, Secretary-Treasurer

MINUTES

Moved by B. McColl
Seconded by J. Meader

That the regular minutes of the Committee of Adjustment meeting held March 16, 2021, as circulated to the members, be accepted.

Carried

UNFINISHED BUSINESS:

CONSENT APPLICATION:

- Submission No.:** B 2020-047
Applicant: Michael Krause
Property Location: 50 Brookside Crescent
Legal Description: Part Block O & Park Block 87, Plan 1334, being Parts 1 & 3 on Reference Plan 58R-20390

Appearances:

In Support: M. Krause
O. Scott

Contra: L. Geisel
C. Laderoute

Written Submissions: Neighbourhood Petition
C. Laderoute

The Committee was advised the applicant is requesting permission to sever a parcel of land on the westerly edge of the property (future municipal address 52-54 Brookside Crescent), having an approximate width of 16.2m, a depth of 33.5m and an area of 542.7 sq.m. The retained land will be irregular in shape having an approximate width of 35m, a depth of 43.5m and an area of 1523 sq.m. The severed lot is intended for a semi-detached dwelling.

The Committee considered Development Services Department report DSD-2021-23 dated March 5, 2021, recommending approval of this application, subject to the conditions outlined in the Report; as well as, Development Services Department report DSD-2021-55 dated April 12, 2021, which was a follow-up reported the requested from the deferral from the Committee's meeting on March 16, 2021.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated November 26, 2020, advising they have no objection to this application subject to the following condition:

1. Submission No.: B 2020-047 (Cont'd)

1. That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per new lot created.

Michael Krause and Owen Scott were in attendance in support of the subject application and staff recommendation.

Christine Laderoute and Luanne Geisel were in attendance in opposition to the subject application. C. Laderoute expressed concerns with the age of the smokehouse/shed noting she had provided newspaper articles for the Committee's consideration that help to corroborate the construction date, which is beyond what was identified in the Heritage Impact Assessment provided with the application. C. Laderoute stated additional concerns related to: the proposed height and setbacks of the semi-detached dwelling; concerns for on-street parking; and, the location of the fence between the proposed severed parcel and the property municipally addressed as 58 Brookside Crescent.

M. Krause stated he has tried to respond to the concerns of the neighbourhood, noting ultimately, he would rely on City approvals for what would be constructed on the proposed lot. M. Krause indicated through this process there have been false statements made about the dwelling constructed to the right of the subject property, noting when he completed that severance he sent a letter to the adjacent neighbours advising of this intentions related to that development. M. Krause noted the written submission provided by the neighbours related to the subject application include statements about that development that are factually inaccurate. M. Krause further advised he has done significant work since the March Committee of Adjustment to meeting to address the concerns of the neighbourhood and has proposed several changes including increasing the front yard setback of the proposed dwelling, as well as decreasing the size of the proposed lots. In response to comments related to the garden suite which is intended to be retained on the subject property, M. Krause stated in his opinion that building should have no relevance to the requested application.

G. Stevenson advised Planning staff held an electronic meeting with the neighbourhood as soon as elevation drawings were received. Discussions took place related to possible solutions or changes that may be required to address the concerns of the neighbourhood. Although all of the changes proposed by the applicant may not address the full limit of concerns raised, the applicant has proposed reducing the size of the lots, as well as the footprint of the building, and increasing the front yard setback more inline with the property municipally addressed as 58 Brookside Crescent. G. Stevenson further advised the building has also been staggered at the request of the City's Urban Design staff and reversed in orientation so the porch rather than the garage is adjacent to 58 Brookside Crescent.

In response to questions, G. Stevenson advised the applicant has expressed the desire to maintain the shed currently located at the rear of the proposed severed lot as Council at its most recent Planning & Strategic Initiatives Committee considered a report that would permit the use of Tiny Homes within the City's Zoning By-law. The applicant wishes to maintain the shed/garden suite as a small dwelling unit on the subject property.

Questions were raised regarding the condition outlined in the staff report related to the applicant requiring approval of the elevation drawings but he Director of Planning and whether it should be updated to include reference to elevation drawings circulated to the Committee this date. G. Stevenson stated if the Committee would like to provide additional direction related to the elevation drawings that condition could be amended, but ultimately the condition clearance should still be to the satisfaction of the Director of Planning as they are the only ones with the authority to provide that approval.

B. McColl advised he had done a site visit of the property and expressed concerns with the development that was constructed to the right of the subject property through the previous severance application and its compatibility with the neighbourhood. B. McColl noted the elevation drawings submitted for the new lot do seem more consistent with the neighbourhood. B. McColl indicated he was in support of the revised front yard setback and the proposed building being more staggered in relation to the adjacent property. B. McColl further advised he would have preferred to see additional information related to the shed and how it was constructed to possibly confirm the date its construction.

1. Submission No.: B 2020-047 (Cont'd)

In response to questions, L. Geisel advised she is still not satisfied with the subject application, regardless of the proposed changes suggested by the applicant.

In response to questions, G. Stevenson advised the setback of the proposed semi-detached dwelling would have a setback of 7.8m whereas the property municipally addressed as 58 Brookside Crescent currently has a setback of 7.5m which determined using the City's GIS mapping software.

M. Krause stated comments were made about the materials used to construct the shed, noting it has a newer cedar roof, parging, wiring, newer garage door and stonework which similar but not consistent with the original home. M. Krause stated he received a letter from C. Laderoute prior the to meeting this date and the letter suggests a personal and emotional attachment with a previous property owner and specific attributes of the property. M. Krause stated the in his opinion the reasons that have been expressed by the neighbourhood should not prevent this project from moving forward.

J. Meader stated the comments made about the desire to retain the coach house at the rear of the proposed severed not being relevant, in her opinion is inaccurate. The proposed severance creates an irregular shaped lot, noting when the Committee considers a severance application the Planning Act has criteria outlined in Section 51 (24), which states "the shape and dimensions of the new lots, is one of the criteria that must be considered when approving a severance". J. Meader commented the purpose for maintaining that portion of the property would be to maintain additional living space in the rear yard of people's amenity space. J. Meader noted although staff are supportive of that proposed lots, she did still have some concern with the proposed lot fabrics.

S. Hannah stated he is in opposition with the subject application. S. Hannah noted the proposed lot severance is for the creation of one lot, theoretically someone could construct a single detached dwelling rather than the proposed semis. S. Hannah stated if the Committee approves the application the recommendation may need to be amended to approve the proposed depth of 31.69m which was included in the elevation drawings submitted to the Committee this date. S. Hannah stated it would be his preference to see a severance application that was the full depth of the property rather than retaining the coach house in the rear of the severance.

B. McColl advised he was in agreement with the comments from the previous Committee members, if the proposed lots included the whole depth of the property and the proposed guest cottage was removed than the footprint of the project could be setback approximately 12m from the property line. B. McColl indicated he was in agreement with staff and the proposed setback with 54 Brookside Crescent is almost inline with 58 Brookside Crescent. B. McColl stated he could support the application if the guest cottage was removed and the severance went the full depth of the property. With higher density targets, he would be in support of subject application.

M. Kidd stated the existing dwelling is aesthetically pleasing that should be retained. M. Kidd indicated he was in support of extending the use of the property and as long as the proposed dwelling was consistent in with the neighbourhood or even the farmhouse, there is balance that could be achieved.

D. Cybalski stated the Committee must take into consideration of lot fabric and how the proposed lots would suit with the adjacent properties. D. Cybalski generally when new lots are created the severance would not leave a remanent portion in the rear, that is not necessarily good planning.

In response to questions, G. Stevenson advised the R4 Zone permits a front yard setback of 4.5m for a porch and 6m for proposed garage with the required parking. G. Stevenson indicated the R4 Zoning does permit a semi-detached dwellings and if the Committee did consider approving the application the decision would need to be amended to reflect a depth of 31.69m to have greater separation between the dwelling.

The Chair noted the only matter before the Committee this date is a severance application, stating the applicant has proposed concessions to address the concerns of the neighbourhood noting the permitted Zoning would allow him to construct closer to the lot line than what is being proposed.

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

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CITY OF KITCHENER

1. Submission No.: B 2020-047 (Cont'd)

S. Hannah noted he was leaning towards requesting a deferral, noting concerns with amending the Heritage Designation By-law to remove the severed property from the designation. S. Hannah further advised currently he was unable to support the size and shape of the lot as proposed, indicating the proposed elevations do not adequately address his concerns. S. Hannah stated he was hoping to see a setback on the left adjacent to 58 Brookside Crescent of 7.8m and 10.96m adjacent to the heritage dwelling. S. Hannah further advised he would prefer to see a severance going the entire depth of the property.

J. Meader stated if the Committee was considering a deferral of the application, from the comments previously stated from the Committee members, it would permit the applicant an opportunity to reconsider the size and shape of the proposed lot. From the comments expressed from the applicant it appears he is unwilling to amend his application to include the back portion of the property containing the garden suite.

S. Hannah stated he is not able to support this application as proposed.

B. McColl questioned whether the Committee was interested in a further deferral to review the front yard setback. S. Hannah indicated he was only willing to defer the application if the applicant was willing to revisit the size of the proposed severance.

M. Krause stated he was disappointed with some of the comments being expressed. M. Krause advised the garden suite which is proposed to be maintained has been occupied for 6-years. The unit has adequate parking on the subject property and the use of the dwelling will be permitted pending approval of the Zoning By-law amendment which addresses tiny homes. M. Krause stated he was not willing to consider the removal of the garden suite. M. Krause indicated he was reluctant to accept a deferral, but a premature decision of the Committee would be made if staff required additional information on the use of the garden suite.

B. McColl stated it appears there is some confusion on the current situation related to the garden suit at the rear of the proposed severance, one plan noting building as a shed, another plan noting it as a garden suite. B. McColl stated the applicant has accepted the option for a deferral for additional information to be provided.

B. McColl brought forward a motion to defer the subject application to get more clarification on the heritage aspect of the entire property and whether the front yard setbacks of the proposed dwelling could be more sympathetic to the adjacent properties.

G. Stevenson requested clarification on the scope of the deferral, noting specifically related to additional information related to the heritage of the property, a Heritage Impact Assessment was provided and considered by Heritage Kitchener in support of the application.

B. McColl stated he was referencing S. Hannah's comments related to the heritage of the entire property. B. McColl questioned whether modification would be required to update the heritage designation. G. Stevenson noted the condition would give the City the authority to amend the designation by-law to remove reference to the severed property within the designation. G. Stevenson stated if the committee was considering a deferral staff would require the full nature of the deferral and what additional information the Committee may require in advance of the May meeting. In response to further questions, G. Stevenson advised the heritage designation by-law addresses the home and the architectural style of the dwelling, it does not reference the shed or garage of having historical significance.

In response to questions, B. McColl indicated the garage, smokehouse and shed are of no historical value and that they were built to suit the style of the dwelling and they have not been substantiated to be heritage items. In regard to the comments from G. Stevenson related to the heritage designation B. McColl removed the request for additional heritage information from his motion to defer.

S. Hannah indicated he would like to see a revised site plan that would see setbacks that were more sympathetic to both 58 Brookside Crescent and 50 Brookside Crescent, as well as information related to the use of the garden shed.

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

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CITY OF KITCHENER

1. Submission No.: B 2020-047 (Cont'd)

B. McColl brought forward a motion to defer the subject application to get additional clarification on the garden suite and its current uses; as well as the front yard setback and whether they can be more sympathetic with the adjacent properties municipally addressed as 58 and 50 Brookside Crescent.

**Moved by B. McColl
Seconded by M. Kidd**

That the application of MICHAEL KRAUSE requesting permission to sever a parcel of land on the westerly edge of the property (future municipal address 52-54 Brookside Crescent), having an approximate width of 16.2m, a depth of 33.5m and an area of 542.7 sq.m. **BE DEFERRED to the May 18, 2021 Committee of Adjustment meeting** to get additional clarification on the garden suite and its current uses; as well as the front yard setback and whether they can be more sympathetic with the adjacent properties municipally addressed as 58 and 50 Brookside Crescent, on Part Block O & Park Block 87, Plan 1334, being Parts 1 to 3 on Reference Plan 58R-20390, 50 Brookside Crescent, Kitchener, Ontario.

Carried

NEW BUSINESS:

MINOR VARIANCE APPLICATION:

- i. **Submission No.:** A 2021-031
- Applicants:** Varinder Purewal and Rajvinder (Bobbie) Chatha
- Property Location:** 660 Avondale Avenue
- Legal Description:** Lot 16 & Part Lot 17, Plan 349

Appearances:

In Support: J. O'Malley
V. Purewal
R. Chatha

Contra: D. & M. Reid E. Plach & R. Wallwork
J. Robinson T. Glover
B. Trotter F. Millard

Written Submissions: A. Stahlke G. Smith
D. & M. Reid R. Donaldson
J. Finney J. Robinson
J. McCormick M. Cadotte & E. McCarron
C. Boehmer S. Munroe
T. Glover B. Trotter
F. Millard C. Trotter
E. Plach & R. Wallwork

The Committee was advised the applicant is requesting permission to construct a single detached dwelling having a rear yard setback 4.7m rather than the required 7.5m. The existing dwelling will be demolished.

The Committee considered Development Services Department report DSD-2021-57 dated April 13, 2021 recommending deferral of the subject application to provide an opportunity for the owner to prepare and submit a satisfactory Tree Preservation / Enhancement Plan, in advance of a decision by the Committee of Adjustment.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

COMMITTEE OF ADJUSTMENT MINUTES

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CITY OF KITCHENER

1. Submission No.: A 2021-031 (Cont'd)

Moved by B. McColl
Seconded by S. Hannah

That the application of Varinder Purewal and Rashvinder Chatha requesting permission to construct a single detached dwelling having a rear yard setback 4.7m rather than the required 7.5m **BE DEFERRED to the May 18, 2021 Committee of Adjustment meeting** to allow additional time for the applicant to opportunity for the owner to prepare and submit a satisfactory Tree Preservation / Enhancement Plan, on Lot 16 & Part Lot 17, Plan 349, 660 Avondale Avenue, Kitchener Ontario.

Carried

UNFINISHED BUSINESS (CONT'D):

COMBINED APPLICATIONS:

1. **Submission No.:** B 2021-011 and A 2021-033
Applicant: Grand River Conservation Authority
Property Location: Fairway Road and Woolner Trail
Legal Description: Part of Lot 9 and 14, Registered Plan 591

Appearances:

In Support: K. Muir
J. Passey

Contra: None

Written Submissions: D. Woolner
L. Kotseff

The Committee was advised the applicant is requesting permission to sever a parcel of land that is approximately 6.92 hectares (17.1 acres) in size.

The Committee considered Development Services Department report DSD-2021-53 dated April 11, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated March 18, 2021, advising they have no objection to application B 2021-014 subject to the following conditions:

1. The owner/applicant is required to enter into an agreement with the Regional Municipality of Waterloo to complete a detailed environmental/stationary noise study prior to Site Plan approval for the severed lands and, if necessary, enter into a further supplementary agreement to secure implementation of the recommendations of the noise study.
2. Notwithstanding Regional Condition 1 above, that prior to final approval, the owner/applicant enter into an agreement with the Region of Waterloo for the severed lands, to include the following warning clause on all offers to purchase and/or rental agreements:
 - i. "Prospective purchasers and tenants are advised that the entire property comprising the severed lands are located within or in close proximity to one of the flight paths leading into and out of the Region of Waterloo International Airport and that directional lighting along this flight path may cause concern to some individuals".
3. That prior to final approval, the owner/applicant removes any easements no longer required on the severed and retained lands, to the satisfaction of the Region of Waterloo.

COMMITTEE OF ADJUSTMENT MINUTES

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CITY OF KITCHENER

1. Submission No.: B 2021-011 and A 2021-033 (Cont'd)

4. That prior to final approval, the owner/applicant enter into an agreement with the Region of Waterloo, to complete a Salt Management Plan for the severed lands prior to Site Plan approval.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with applications A 2021-033.

The Committee considered the report from the Grand River Conservation Authority, dated March 1, 2021 advising they have no concerns with the subject application.

The Chair noted a clerical error in the staff report, stating the approval should remove the request for a deferral from the Committee's decision this date. It was further noted the Comments from the Region of Waterloo and Grand River Conservation Authority (GRCA) should be included in the Committee's decision this date.

Kevin Muir and Jennifer Passy were in attendance in support of the subject application and staff recommendation.

Submission No.: B 2021-011

Moved by J. Meader
Seconded by S. Hannah

That the application of GRAND RIVER CONSERVATION AUTHORITY requesting permission to sever a vacant irregular shaped parcel at the corner of Fairway Road North and Old Zeller Drive having a width on Old Zeller Drive of approximately 159.862m and an area of 6.92 hectares, on Part of Lot 9 and 14, Registered Plan 591, Fairway Road and Woolner Trail, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall provide 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 sized 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.
2. The owner shall to enter into an agreement with the Regional Municipality of Waterloo to complete a detailed environmental/stationary noise study prior to Site Plan approval for the severed lands and, if necessary, enter into a further supplementary agreement to secure implementation of the recommendations of the noise study.
3. The owner shall enter into an agreement with the Region of Waterloo for the severed lands, to include the following warning clause on all offers to purchase and/or rental agreements:

"Prospective purchasers and tenants are advised that the entire property comprising the severed lands are located within or in close proximity to one of the flight paths leading into and out of the Region of Waterloo International Airport and that directional lighting along this flight path may cause concern to some individuals".
4. That the owner shall remove any easements no longer required on the severed and retained lands, to the satisfaction of the Region of Waterloo.
5. That the owner shall enter into an agreement with the Region of Waterloo, to complete a Salt Management Plan for the severed lands prior to Site Plan approval.
6. That the owner shall receive final approval of Minor Variance application A2021-033.
7. That the owner shall make satisfactory financial arrangements with the Grand River Conservation Authority (GRCA) for the application review fee.

It is the opinion of this Committee that:

COMMITTEE OF ADJUSTMENT MINUTES

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CITY OF KITCHENER

1. Submission No.: B 2021-011 and A 2021-033 (Cont'd)

- 1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
- 2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
- 3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

Submission No.: A 2021-033

Moved by J. Meader
Seconded by S. Hannah

That the application of GRAND RIVER CONSERVATION AUTHORITY requesting permission for the severed land identified in Consent Application B 2021-011 intended for use by the Waterloo Catholic District School board to have a lot width of 150m rather than the required 300m; and, an area of 6.9 hectares rather than the required 40 hectares, on Part of Lot 9 and 14, Registered Plan 591, Fairway Road and Woolner Trail (Vacant Land), Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

- 1. The variances requested in this application are minor.
- 2. This application is desirable for the appropriate development of the property.
- 3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

NEW BUSINESS (CONT'D):

MINOR VARIANCE APPLICATIONS:

- 1. **Submission No.:** A 2021-019
Applicant: Milestone Developments Inc.
Property Location: 30 Waterbow Trail
Legal Description: Lot 59, Plan 58M-605

Appearances:

In Support: P. Haramis

COMMITTEE OF ADJUSTMENT MINUTES

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CITY OF KITCHENER

1. **Submission No.:** A 2021-019 (Cont'd)

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to construct a single detached dwelling having a southerly side yard abutting Valleybrook Drive of 4.1m rather than the required 4.5m; a southerly side yard abutting Valleybrook Drive for a non-enclosed porch of 2.74m rather than the required 3m; and, a driveway setback of 7.6m from the intersection of Waterbow Trail and Valleybrook Drive rather than the required 9m.

The Committee considered Development Services Department report DSD-2021-33 dated March 5, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with the subject application.

Moved by B. McColl
Seconded by Mike Kidd

That the application of MILESTONE DEVELOPMENTS INC requesting permission to construct a single detached dwelling having a southerly side yard abutting Valleybrook Drive of 4.1m rather than the required 4.5m; a southerly side yard abutting Valleybrook Drive for a non-enclosed porch of 2.74m rather than the required 3m; and, a driveway setback of 7.6m from the intersection of Waterbow Trail and Valleybrook Drive rather than the required 9m, on Lot 59, Plan 58M-605, 30 Waterbow Trail, Kitchener, Ontario, **BE APPROVED**.

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

2. **Submission No.:** A 2021-026
Applicants: Katrina Cove-Shannon
Property Location: 11 Whitney Place
Legal Description: Lot 260, Subdivision of Lot 17, German Company Tract

Appearances:

In Support: T. Bauman

Contra: None

Written Submissions: None

The Committee was advised the applicants are requesting permission to reconstruct the front porch on an existing single detached dwelling having an easterly side yard setback of 0.78m rather than the required 1.2m; a front porch setback of 2.64m rather than the required 4.7m; and, a 2.64m encroachment into the Driveway Visibility Triangle (DVT) whereas the By-law does not permit encroachments into the 4.5m DVT.

COMMITTEE OF ADJUSTMENT MINUTES

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2. Submission No.: A 2021-026 (Cont'd)

The Committee considered Development Services Department report DSD-2021-056 dated April 13, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Moved by S. Hannah
Seconded by J. Meader

That the application of KATRINA COVE-SHANNON requesting permission to reconstruct the front porch on an existing single detached dwelling having an easterly side yard setback of 0.78m rather than the required 1.2m; a front yard setback of 2.64m rather than the required 4.7m; and, for the proposed porch to encroach into the Driveway Visibility Triangle (DVT) whereas the By-law does not permit encroachments into the 4.5m DVT, on Lot 260, Subdivision of Lot 17, German Company Tract, 11 Whitney Place, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

3. Submission No.: A 2021-027
Applicants: Milos Posavljak
Property Location: 573 Guelph Street
Legal Description: Lot 17, Plan 749

Appearances:

In Support: I. Cekic
M. Posavljak

Contra: None

Written Submissions: None

The Committee was advised the applicants are requesting permission to construct a semi-detached dwelling on a lot having a width of 14.96m rather than the required 15m; and, an easterly side yard setback of 0.94m and a westerly side yard setback of 0.91m rather than the required 1.2m.

The Committee considered Development Services Department report DSD-2021-19 dated April 9, 2021 recommending approval of the subject application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Ivana Cekic and Milos Posavljak were in attendance in support of the subject application. In response to questions I. Cekic indicated she was not aware this date of that windows would not be permitted in the side façade of the dwelling. S. Hannah noted if windows are preferred in the side yard the Building Code will require a side yard setback of 1.2m.

3. Submission No.: A 2021-027 (Cont'd)

Moved by J. Meader
 Seconded by B. McColl

That the application of MILOS POSAVLJAK requesting permission to construct a semi-detached dwelling on a lot having a width of 14.96m rather than the required 15m; and, an easterly side yard setback of 0.94m and a westerly side yard setback of 0.91m rather than the required 1.2m, on Lot 17, Plan 749, 573 Guelph Street, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

4. Submission No.: A 2021-028
Applicants: Ilseadore Kautsky
Property Location: 11 Springdale Drive
Legal Description: Lot 5, Plan 1129

Appearances:

In Support: I. Kautsky
 N. Kautsky

Contra: None.

Written Submissions: None.

The Committee was advised the applicants are requesting permission to have a home office in the basement of an existing single detached dwelling having one off-site employee whereas the By-law does not permit off-site employees; and, to 2 separately accessed off-street parking spaces rather than the required 3 separately accessed off-street parking spaces.

The Committee considered Development Services Department report DSD-2021-59 dated April 12, 2021 recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Ilseadore Kautsky and Nadine Kautsky were in attendance in support of the subject application. I. Kautsky provided an overview of the subject application, stating the employee that attends her home is her daughter who lives on the same street and walks to the subject property.

Questions were raised regarding the width of the driveway, J. von Westerholt noted the applicant would prefer not to widen the driveway, stating he need for the variance is to allow the reduction in one required parking space. The applicant would have required 3 off-street parking space and the property can only accommodate 2 off-street spaces.

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4. **Submission No.:** A 2021-028 (Cont'd)

S. Hannah suggested and it was agreed that the deadline outlined in Condition 2 of the staff report should be June 1, 2022 rather than June 1, 2021 to allow additional time for the applicant to obtain their occupancy certificate.

Moved by S. Hannah
Seconded by B. McColl

That the application of ILSEDORE KAUTSKY requesting permission to have a home business (office for online sales) having one employee in an existing single detached dwelling to have 2 separately accessed off-street parking spaces rather than the required 3 separate off-street parking spaces, on Lot 5, Plan 1129, 11 Springdale Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. The owner shall obtain a Zoning (Occupancy) Certificate from the Planning Division.
2. That condition 1 above be completed by June 1, 2022. Any request for a time extension must be approved in writing by the Manager of Development Review (or designate) prior to completion date set out in this decision. Failure to complete the conditions will result in this approval becoming null and void.

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

5. **Submission No.:** A 2021-029
Applicant: Chris Coles
Property Location: 20 Munroe Street
Legal Description: Part Lot 19, Registered Plan 861

Appearances:

- In Support: C. Coles
 Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to convert an existing single detached dwelling into a duplex having the required off-street parking located 1m from the property line rather than the required 6m.

The Committee considered Development Services Department report DSD-2021-44 dated April 9, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Chris Coles was in attendance in support of the application.

5. Submission No.: A 2021-029 (Cont'd)

In response to questions, J. von Westerholt advised if the applicant is required to widen the driveway to accommodate the conversion of the garage, it would not necessarily necessitate the requirement to cut the curb. D. Seller stated if and when a property owner requests a driveway widening staff would review whether a curb cut was required and whether it would impact any boulevard trees, or street furniture etc.

S. Hannah brought a motion forward to approve the subject application, including a condition that the owner shall widen the driveway to accommodate 2-off street parking spaces to the satisfaction of the Director of Planning prior to the issuance of a building permit.

Moved by S. Hannah
Seconded by B. McColl

That the application of CHRISTOPHER NORMAN COLES requesting permission to convert an existing single detached dwelling into a duplex having the required off-street parking located 1m from the property line rather than the required 6m, on Part Lot 19, Registered Plan 861, 20 Munroe Street, Kitchener, Ontario, **BE APPROVED**, subject to the following condition:

1. That the owner shall widen the driveway to accommodate 2-off street parking spaces to the satisfaction of the Director of Planning prior to the issuance of a building permit.

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

6. **Submission No.:** A 2021-030
Applicants: 2441912 Ontario Inc.
Property Location: 80 Courtland Avenue East
Legal Description: Lot 191, Subdivision of Lot 17, German Company Tract

Appearances:

In Support: C. Lusty
 A. Sinclair

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to convert the existing office building into a health office having a parking rate of 1 off-street parking space per 26 sq.m. of Gross Floor Area (GFA) rather than the required 1 off-street parking space per 15 sq.m. GFA.

The Committee considered Development Services Department report DSD-2021-45 dated April 9, 2021 recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

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6. Submission No.: A 2021-030 (Cont'd)

Andrea Sinclair and Chris Lusty were in attendance in support of the subject application. A. Sinclair noting following a discussion and confirmation with City staff she requested Condition 1 of the staff recommendation be amended to note the requirement of a Stamp Plan B Site Plan approval, noting the wording could suggest full Site Plan approval being required.

J. von Westerholt indicated if the applicant has clarified that requirement, she indicated she had no concerns with amending the condition to specify Stamp Plan B Site Plan approval.

The Committee agreed to amend Condition 1 of the staff recommendation to indicate the requirement of a Stamp Plan B Site Plan approval.

Moved by B. McColl
Seconded by S. Hannah

That the application of 2441912 ONTARIO INC requesting permission to convert the existing office building into a health office having a parking rate of 1 off-street parking space per 26 sq.m. of Gross Floor Area (GFA) rather than the required 1 off-street parking space per 15 sq.m. GFA, on Lot 191, Subdivision of Lot 17, German Company Tract, 80 Courtland Avenue East, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain Stamp Plan B Site plan approval to the satisfaction of the Manager of Site Development and Customer Service.
2. That the owner shall obtain a Zoning (Occupancy) Certificate from the Planning Division to establish the Health Office/Clinic use on the property.
3. That the owner shall complete all conditions prior to June 1st, 2022. Any request for a time extension must be approved in writing by the Manager of Development Review (or designate), prior to the completion date set out in this decision. Failure to fulfill these conditions, will result in this approval becoming null and void.

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

M. Kidd left the meeting at this time.

7. **Submission No.:** A 2021-032
Applicants: Stephanie Catcher and George Chambers
Property Location: 81 Waterloo Street
Legal Description: Part Lot 382, Plan 378

Appearances:

In Support: S. Catcher

Contra: None

Written Submissions: None

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7. Submission No.: A 2021-032 (Cont'd)

The Committee was advised the applicant is requesting permission to construct a roof over an existing deck in the rear yard of a single detached dwelling having a rear yard setback of 4m rather than the required 7.5m.

The Committee considered Development Services Department report DSD-2021-48 dated April 8, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Stephanie Catcher were in attendance in support of the subject application and staff recommendation. In response to questions, S. Catcher stated the proposed covered deck will be one storey in height but will be fully enclosed with screens and a lock for added security on the property.

It was suggested and agreed that the Committee's decision this date include that the approval is for a 1-storey covered porch.

**Moved by S. Hannah
Seconded by J. Meader**

That the application of GEORGE PATRICK CHAMBERS and STEPHANIE DIANA CATCHER requesting permission to construct a 1-storey covered deck in the rear yard of a single detached dwelling having a rear yard setback of 4m rather than the required 7.5m, on Part Lot 382, Plan 378, 81 Waterloo Street, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

CONSENT APPLICATIONS

1. **Submission No.:** B 2021-015
Applicants: Novacore (83 Elmsdale Drive) Inc.
Property Location: 83 Elmsdale Drive
Legal Description: Part Lots 3 & 4, Municipal Compiled Plan 1021, Part Lot 1, Municipal Compiled Plan 1022 and Part Lot 3 Municipal Compiled Plan 1026

Appearances:

In Support: T. Collins

Contra: None

Written Submissions: None

1. Submission No.: B 2021-015 (Cont'd)

The Committee was advised the applicant is requesting permission to grant three easements for sanitary services available along the Ottawa Street property frontage to facilitate development; Easement 1 on the plan submitted with the application being irregular in shape having a width of 5m, an overall length of 152.3m and an area of 761.3 s.m. in favour of Parcel C; Easement 2 on the plan submitted with the application having a width of 5m, a length of 5.5m and an area of 27.5 sq.m. in favour of Parcels C and D; and, Easement 3 having a width of 5m, a length of 161.1m and an area of 805.6 sq.m. in favour of Parcel D. The property was previously subject to Consent applications which created the parcels and established additional easements.

The Committee considered Development Services Department report DSD-2021-49 dated April 8, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 9, 2021 advising they have no concerns with this application.

Moved by S. Hannah
Seconded by B. McColl

That the application of NOVACORE (83 ELMSDALE DRIVE) INC. requesting permission to grant three easements for sanitary services available along the Ottawa Street property frontage to facilitate development; Easement 1 on the plan submitted with the application being irregular in shape having a width of 5m, an overall length of 152.3m and an area of 761.3 s.m. in favour of Parcel C; Easement 2 on the plan submitted with the application having a width of 5m, a length of 5.5m and an area of 27.5 sq.m. in favour of Parcels C and D; and, Easement 3 having a width of 5m, a length of 161.1m and an area of 805.6 sq.m. in favour of Parcel D, on Part Lots 3 & 4, Municipal Compiled Plan 1021, Part Lot 1, Municipal Compiled Plan 1022 and Part Lot 3 Municipal Compiled Plan 1026, 83 Elmsdale Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the Transfer Easement document required to create the Easement being approved herein shall include the following and shall be approved by the City Solicitor:
 - a. a clear and specific description of the purpose of the Easement 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).
 - b. a clause/statement/wording confirming that the Easement 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.
4. That the owner shall provide 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.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.

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1. Submission No.: B 2021-015 (Cont'd)

- 3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

- 2. **Submission No.:** B 2021-016
Applicants: Revalue Properties Inc.
Property Location: 83 Second Avenue
Legal Description: Part of Block "B", Registered Plan 254

Appearances:

In Support: B. Jokanovic

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m. The retained land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m. The existing dwelling will be demolished.

The Committee considered Development Services Department report DSD-21-052 dated April 9, 2021 recommending approval of this application, subject to the conditions outlined in the report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 9, 2021 advising they have no concerns with this 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 new lot created.
- 2) That prior to final approval, the owner/applicant enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a) The dwelling will be fitted with forced air-ducted heating system suitably sized and designed with provision for the installation of air conditioning in future, at the occupant's discretion,
 - b) That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
 - c) The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:

2. Submission No.: B 2021-016 (Cont'd)

- i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic Highway 7/8 may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP). This dwelling has been fitted with a forced air-ducted heating system and has been designed with the provision of adding central air conditioning at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)."*

Boban Jokanovic was in attendance in support of the subject application and staff recommendation.

The Chair requested the Regional Conditions be included in the Committees decision this date. It was further suggested and agreed that Condition 10 of the staff report be amended to reference the demolition of a single detached dwelling rather than "a portion of the detached dwelling".

Moved by B. McColl
Seconded by J. Meader

That the application of REVALUE PROPERTIES INC requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m. The retained land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m., on Part of Block "B", Registered Plan 254, 83 Second Avenue, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner shall pay to the City of Kitchener a cash-in-lieu contribution for park dedication on the severed parcel equal in the amount of \$3785.80.
4. That the owner shall make 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.
5. That the owner shall ensure 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 Division.
6. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
7. That the owner shall submit a complete Development and Reconstruction As-recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.

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2. Submission No.: B 2021-016 (Cont'd)

8. That the owner shall provide 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 shall 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 Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning and the Director of Operations, and where necessary, implemented prior to any grading, tree removal or the issuance of any building permits. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation (including street trees) to be preserved.
 - 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 Director of Planning and the Director of Parks and Cemeteries.
 - c) That the Owner ensures any boulevard trees identified by the City for retention are protected during construction to the satisfaction of the City's Director of Parks and Cemeteries and the City's Director of Planning. That prior to the issuance of any building permit, the Owner makes satisfactory arrangements financial or otherwise for any relocation/removal of any existing boulevard trees adjacent to the subject property to the satisfaction of the City's Parks and Cemeteries.
10. That the owner shall obtain a demolition permit for the existing single detached dwelling proposed to be demolished, to the satisfaction of the Chief Building Official.
11. That the owner shall enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a) The dwelling will be fitted with forced air-ducted heating system suitably sized and designed with provision for the installation of air conditioning in future, at the occupant's discretion.
 - b) That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
 - c) The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
 - i. "The purchasers / tenants are advised that sound levels due to increasing road traffic Highway 7/8 may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP). This dwelling has been fitted with a forced air-ducted heating system and has been designed with the provision of adding central air conditioning at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)."
12. That the owner shall submit the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

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2. Submission No.: B 2021-016 (Cont'd)

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

3. Submission No.: B 2021-017
Applicant: 2611601 Ontario Inc.
Property Location: 82 Pattandon Avenue
Legal Description: Part Lots 14 & 15, Registered Plan 384

Appearances:

- | | | |
|-------------|---------------|-------------|
| In Support: | J. Hale | |
| Contra: | J. Lazarte | J. Steckley |
| | C. & G. Rito | Z. Harvey |
| | D. Hunsperger | |

Written Submissions: B. Pejanovic

The Committee was advised the applicant is requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m. The retained land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m. The existing dwelling will be demolished.

The Committee considered Development Services Department report DSD-2021-47 dated April 9, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated April 9, 2021, advising they have no objection to this 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 new lot created.
- 2) That prior to final approval, the owner/applicant enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:

3. Submission No.: B 2021-017 (Cont'd)

- a. The dwelling will be fitted with forced air-ducted heating system suitably sized and designed with provision for the installation of air conditioning in future, at the occupant's discretion.
- b. The exterior walls (eastern and northern walls) facing the railway will be constructed with brick veneer (EW5) or acoustical equivalent.
- c. That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
- d. The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
 - i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic on Ottawa Street North, local municipal streets, and rail noise from CN Railway may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)".*
 - ii. *"This unit has supplied with central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Region of Waterloo and the Ministry of the Environment, Conservation and Parks."*
 - iii. *"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."*

Janelle Hale was in attendance in support of the application and the staff recommendation.

Julieta Lazarte was in attendance in opposition to the application, expressing concerns that the property was going to be developed with a 4-unit multi-residential dwelling. In response to the comments, J. Hale advised the application is proposing to create one new lot for the construction of semi-detached dwellings.

Jeff Steckley addressed the Committee in opposition to the application. J. Steckley advised although the R5 Zone permits semi-detaching dwellings, this would be the first one constructed on the street and it would set a precedence for future development of this nature. J. Steckley noted they are located within a Residential Intensification in Established Neighbourhoods Study (RIENS) area and questioned how the study would protect them from development, indicating the proposed severance will significantly alter the street.

In response to questions, J. von Westerholt advised the R5 Zoning does permit semi-detached dwellings as a permitted use. The proposed lots fully conform with the Zoning by-laws and the proposed setbacks of the new dwelling would be inline with the other homes on the street. J. Steckley questioned whether there was a threshold ratio for applications that would be considered in the future. The Chair noted if the Zoning permits the use, market demand would likely dictate future development on the street.

Christine & George Rito were in attendance in opposition of the application. C. Rito noted she concurred with the comments from J. Steckley. C. Rito questioned whether the proposed garages would be required to consistent with the existing streetscape.

3. Submission No.: B 2021-017 (Cont'd)

J. von Westerholt stated the property is located within a RIENS neighbourhood, stating the proposed garage would be required to be located behind the principle facade. In response to questions, J. Hale indicated they have not yet started the design process for the proposed semi-detached dwelling, commenting they would be opening to listening to some suggestions of the neighbourhood.

Zoe Harvey addressed the Committee in opposition to the application, expressing concerns with: safety of the neighbourhood; the possible eviction of the tenants moving in May 2021; and, the noise from the construction. Z. Harvey expressed further concerns with the timing of the meeting, noting it was not accessible to all residents.

Deb Hunsperger was in attendance in opposition to the application. D. Hunsperger expressed concerns with: on-street parking, safety specifically related to emergency response times and traffic; as well as, the possible loss of the neighbourhood family appeal.

In response to questions, D. Seller this is the first he had received a complaint related to safety for the subject the street. D. Seller indicated on-street parking is permitted on both sides of the street, noting specifically with snow events it was typical that a street would narrow in size due to the snow. D. Seller indicated he could not speak to the accessibility of the street related to emergency response. D. Seller further advised the proposed dwelling would be required to provide off-street parking spaces for the units, likely those spaces would be located within a garage.

J. Meader stated all the concerns received this date from the area residents do not directly relate to the subject application, noting concerns for tenants or noise are out the Committee's authority. J. Meader indicated the property owner could demolish and reconstruct the dwelling and would not require any approvals from the Committee. Comments related to traffic and parking are existing conditions that would not be exacerbated by one additional dwelling unit. J. Meader further advised in her opinion, the application supports the provincial policy statements for intensification.

S. Hannah advised he was sympathetic to the neighbourhood, he acknowledge the concerns related to precedence, indicating the Zoning on the street permits this type of development. S. Hannah further advised he was in agreement with the comments made by J. Meader.

Moved by J. Meader
Seconded by S. Hannah

That the application of 2611601 ONTARIO INC requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m. The retained land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m., on Part Lots 14 & 15, Registered Plan 384, 82 Pattandon Avenue, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner shall pay to the City of Kitchener a cash-in-lieu contribution for park dedication on the severed parcel equal in the amount of \$3,505.20.
4. That the owner shall make 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.

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3. Submission No.: B 2021-017 (Cont'd)

5. That the owner shall ensure 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 Division.
6. That the Owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
7. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
8. That the owner shall provide 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 shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the two lots.
10. That the owner shall 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 prior to any grading, servicing or the application or issuance of a building permit, the owner shall submit a plan, prepared by a qualified consultant, to the satisfaction and approval of the City's Director of Planning showing:
 - i. the proposed location of all buildings (including accessory buildings and structures), decks and driveways;
 - ii. the location of any existing buildings or structures that are to be removed or relocated;
 - iii. the proposed grades and drainage;
 - iv. the location of all trees to be preserved, removed or potentially impacted on or adjacent to the subject lands, including notations of their size, species and condition;
 - v. justification for any trees to be removed; and
 - vi. outline tree protection measures for trees to be preserved; and
 - b. Any alteration or improvement to the lands including grading, servicing, tree removal and the application or issuance of any building permits shall be in compliance with the approved plan. Any changes or revisions to the plan require the approval of the City's Director of Planning.
11. That the owner shall submit the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
12. That the owner shall enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a. The dwelling will be fitted with forced air-ducted heating system suitably sized and designed with provision for the installation of air conditioning in future, at the occupant's discretion.
 - b. The exterior walls (eastern and northern walls) facing the railway will be constructed with brick veneer (EW5) or acoustical equivalent.

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3. Submission No.: B 2021-017 (Cont'd)

- c. That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
- d. The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
 - i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic on Ottawa Street North, local municipal streets, and rail noise from CN Railway may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)".*
 - ii. *"This unit has supplied with central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Region of Waterloo and the Ministry of the Environment, Conservation and Parks."*
 - iii. *"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."*

It is the opinion of this Committee that:

- 1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
- 2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
- 3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

- 2. Submission No.: B 2021-018 to B 2021-020
Applicants: ELEV8 Properties Inc.
Property Location: 942 Doon Village Road
Legal Description: Part Lot 2, Blehn's Tract

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

Appearances:

In Support: S. O' Neill
S. Patterson

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to create 3 lots and retain 1 for residential development. All four of the lots are proposed to have access on Doon Mills Drive. The proposed lots will have the following dimensions:

B 2020-018 - (Severed Lot 1)

Access Doon Mills Drive
Width - 13.716m
Depth - 70.7m
Area - 918.4 sq.m

B 2020-019 - (Severed Lot 2)

Access Doon Mills Drive
Width - 13.716m
Depth - 70.7m
Area - 909.4 sq.m

B 2020-020 - (Severed Lot 3)

Access Doon Mills Drive
Width - 13.716m
Depth - 70.76m
Area - 909.6 sq.m

Retained Lot

Access Doon Mills Drive
Width - 19.695m
Depth - 70.76m
Area - 1306.6 sq.m

The Committee considered Development Services Department report DSD-2021-54 dated April 11, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated April 9, 2021, advising they have no objection to this 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 new lot created.
- 2) That prior to final approval, the owner/applicant complete an Environmental Noise Study and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise assessment attenuation measures, all to the satisfaction of the Region of Waterloo.

Scott Patterson and Sean O'Neill were in attendance in support of the applications. S. Patterson requested the Committee revising Condition 3 of the staff recommendation, noting the wording as proposed when applied to all three decisions could require the application to pay \$18K per severance, whereas the intention is that the cash-in-lieu contribution is noted is an accumulated total. S. Patterson further advised the Region of Waterloo has requested a Noise Study, noting he attempted to reach out to the Region in advance of the meeting but did not receive a response as of yet. S. Patterson indicated a previous severance application was approved by the Committee for 518 Bridgeport Road, which fronts onto a Regional road and is in close proximity to the expressway and a Noise Study was not requested in that instance. S. Patterson stated impacts of noise in that instance are likely greater than in this location and requested consideration be given to amending the condition to read "That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo" which would leave greater related to environmental noise that the Region could request a study, or could only require a Noise warning agreement", noting it would give some flexibility to the Region to request a Noise Study or an noise warning agreement.

It was suggested and agreed that the proposed amendments related to parkland dedication and the Environmental Noise condition be revised as requested. It was further suggested by S. Hannah and agreed that an additional condition be added to the Committee's decision this date require the owner to receive demolition approval for the existing dwelling prior to the severance of the lots.

2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)**Submission No.: B 2021-018****Moved by S. Hannah****Seconded by B. McColl**

That the application of ELEV8 PROPERTIES INC. requesting permission to sever a parcel of land identified as Severed Parcel 1 on the plan submitted with the application having a width on Doon Mills Drive of 13.716m, a depth of 70.7m and an area of 918.4 sq.m, on Part Lot 2, Biehn's Tract, 942 Doon Village Road, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner pays to the City of Kitchener a cash-in-lieu contribution for park dedication for a total accumulated amount of \$18,928.08 for the severed parcels identified in Consent Applications B 2021-018, B 2021-019 and B 2021-020.
4. That the Owner shall prepare Street Tree Management Plan (STMP), stamped by a certified Landscape Architect, in accordance with Section M of the Development Manual, to satisfaction of the City's Director of review by Parks and Cemeteries.
5. 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.
6. That the owner shall ensure 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 Division in Consultation with the City's Director of Transportation Services.
7. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
8. That the owner shall prepare a Grading Plan for the severed and retained lands in accordance with the City's Development Manual, to be approved by the City's Director of Engineering in consultation with the City's Director of Planning.
9. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
10. That the owner shall provide 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.
11. The owner shall prepare a Tree Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area, and vegetation to be preserved.

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

12. The owner shall enter into a modified subdivision agreement with the City of Kitchener to be prepared by the City Solicitor to the satisfaction of the City's Director of Planning, and registered on title of the Retained and Severed lands. Said agreement shall include the following conditions:

I. *Prior to Grading, Tree Removal, or Issuance of any Building Permits, whichever shall occur first:*

a) *The Owner shall implement all approved measures for the protection of trees as approved in the Tree Preservation/Enhancement Plan (where applicable) and to provide written certification from the Owner's Environmental Consultant to the City's Director of Planning that all protection measures have been implemented and inspected, in accordance with the City's Tree Management Policy. No changes to the said plans shall be granted, except with prior approval from the City's Director of Planning.*

II. *Prior to the Issuance of any Building Permits*

b) *The Owner shall obtain approval of a Lot Grading Control Plan showing the required elevation of each corner of each lot for the severed and retained lands and the required elevation(s) of the building site as well as the required direction flow of surface drainage which must be approved by the CITY'S Director of Engineering Services, and must conform to the approved Tree Management Plan, overall Grading Plan, and Street Tree Management Plan.*

In addition to the conditions noted above, the modified subdivision agreement shall contain language to address maintenance and access for any shared driveways, if proposed.

13. That the owner shall submit the applicant consent review fee of \$350.00 per new lot created to the Region of Waterloo.

14. That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo.

15. That the owner shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the lots.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.

2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.

3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)Submission No.: B 2021-019

Moved by S. Hannah
Seconded by B. McColl

That the application of ELEV8 PROPERTIES INC. requesting permission to sever a parcel of land identified as Severed Parcel 2 on the plan submitted with the application having a width on Doon Mills Drive of 13.716m, a depth of 70.7m and an area of 909.4 sq.m, on Part Lot 2, Biehn's Tract, 942 Doon Village Road, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner pays to the City of Kitchener a cash-in-lieu contribution for park dedication for a total accumulated amount of \$18,928.08 for the severed parcels identified in Consent Applications B 2021-018, B 2021-019 and B 2021-020.
4. That the Owner shall prepare Street Tree Management Plan (STMP), stamped by a certified Landscape Architect, in accordance with Section M of the Development Manual, to satisfaction of the City's Director of review by Parks and Cemeteries.
5. 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.
6. That the owner shall ensure 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 Division in Consultation with the City's Director of Transportation Services.
7. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
8. That the owner shall prepare a Grading Plan for the severed and retained lands in accordance with the City's Development Manual, to be approved by the City's Director of Engineering in consultation with the City's Director of Planning.
9. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
10. That the owner shall provide 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.
11. The owner shall prepare a Tree Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area, and vegetation to be preserved.

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

12. The owner shall enter into a modified subdivision agreement with the City of Kitchener to be prepared by the City Solicitor to the satisfaction of the City's Director of Planning, and registered on title of the Retained and Severed lands. Said agreement shall include the following conditions:

I. *Prior to Grading, Tree Removal, or Issuance of any Building Permits, whichever shall occur first:*

a) *The Owner shall implement all approved measures for the protection of trees as approved in the Tree Preservation/Enhancement Plan (where applicable) and to provide written certification from the Owner's Environmental Consultant to the City's Director of Planning that all protection measures have been implemented and inspected, in accordance with the City's Tree Management Policy. No changes to the said plans shall be granted, except with prior approval from the City's Director of Planning.*

II. *Prior to the Issuance of any Building Permits*

c) *The Owner shall obtain approval of a Lot Grading Control Plan showing the required elevation of each corner of each lot for the severed and retained lands and the required elevation(s) of the building site as well as the required direction flow of surface drainage which must be approved by the CITY'S Director of Engineering Services, and must conform to the approve Tree Management Plan, overall Grading Plan, and Street Tree Management Plan.*

In addition to the conditions noted above, the modified subdivision agreement shall contain language to address maintenance and access for any shared driveways, if proposed.

13. That the owner shall submit the applicant consent review fee of \$350.00 per new lot created to the Region of Waterloo.
14. That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo.
15. That the owner shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the lots.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

Submission No.: B 2021-020

Moved by S. Hannah
Seconded by B. McColl

2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

That the application of ELEV8 PROPERTIES INC. requesting permission to sever a parcel of land identified as Severed Parcel 3 on the plan submitted with the application having a width on Doon Mills Drive of 13.716m, a depth of 70.7m and an area of 909.6 sq.m, on Part Lot 2, Biehn's Tract, 942 Doon Village Road, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner pays to the City of Kitchener a cash-in-lieu contribution for park dedication for a total accumulated amount of \$18,928.08 for the severed parcels identified in Consent Applications B 2021-018, B 2021-019 and B 2021-020.
4. That the Owner shall prepare Street Tree Management Plan (STMP), stamped by a certified Landscape Architect, in accordance with Section M of the Development Manual, to satisfaction of the City's Director of review by Parks and Cemeteries.
5. 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.
6. That the owner shall ensure 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 Division in Consultation with the City's Director of Transportation Services.
7. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
8. That the owner shall prepare a Grading Plan for the severed and retained lands in accordance with the City's Development Manual, to be approved by the City's Director of Engineering in consultation with the City's Director of Planning.
9. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
10. That the owner shall provide 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.
11. The owner shall prepare a Tree Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area, and vegetation to be preserved.
12. The owner shall enter into a modified subdivision agreement with the City of Kitchener to be prepared by the City Solicitor to the satisfaction of the City's Director of Planning, and registered on title of the Retained and Severed lands. Said agreement shall include the following conditions:

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

I. *Prior to Grading, Tree Removal, or Issuance of any Building Permits, whichever shall occur first:*

a) *The Owner shall implement all approved measures for the protection of trees as approved in the Tree Preservation/Enhancement Plan (where applicable) and to provide written certification from the Owner's Environmental Consultant to the City's Director of Planning that all protection measures have been implemented and inspected, in accordance with the City's Tree Management Policy. No changes to the said plans shall be granted, except with prior approval from the City's Director of Planning.*

II. *Prior to the Issuance of any Building Permits*

d) *The Owner shall obtain approval of a Lot Grading Control Plan showing the required elevation of each corner of each lot for the severed and retained lands and the required elevation(s) of the building site as well as the required direction flow of surface drainage which must be approved by the CITY'S Director of Engineering Services, and must conform to the approved Tree Management Plan, overall Grading Plan, and Street Tree Management Plan.*

In addition to the conditions noted above, the modified subdivision agreement shall contain language to address maintenance and access for any shared driveways, if proposed.

- 13. That the owner shall submit the applicant consent review fee of \$350.00 per new lot created to the Region of Waterloo.
- 14. That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo.
- 15. That the owner shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the lots.

It is the opinion of this Committee that:

- 1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
- 2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
- 3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

2. **Submission No.:** B 2021-021 to B 2021-023
Applicants: Adam & Tracy Szuba and Roberto Drelini
Property Location: 654 Rockway Drive
Legal Description: Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347

Appearances:

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2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

In Support: D. Galbraith

Contra:	T. McCrabb	H. & B. Woodley
	S. & P. Hartigan	S. Jones
	P. & C. Berry	S. & J. Francis
	B. Hotton	M. & C. McFarlane

Written Submissions:	C. & J. Axler	B. Voigt
	P. Rath	S. Hartigan
	S. Francis	P. Schreiter
	P. & C. Berry	M. Cameron
	B. Hooton	M. McFarlane
	H. Woodley	R. Gurney
	S. & M. Jones	

The Committee was advised the applicant is requesting permission to create 3 lots and retain 1 for the construction of two semi-detached dwellings. The proposed lots will have the following dimensions:

Retained Parcel - (Parcel A)

Width - 8.38m
Depth - 32.61m
Area - 263 sq.m

B 2021-021 - (Parcel B)

Width - 8.38m
Depth - 32.61m
Area - 263 sq.m

B 2021-022 - (Parcel C)

Width - 8.38m
Depth - 32.62m
Area - 263 sq.m

B 2021-023 - (Parcel D)

Width - 8.38m
Depth - 32.61m
Area - 263 sq.m

The Committee considered Development Services Department report DSD-2021-50 dated April 8, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated April 9, 2021, advising they have no objection to this application subject to the following conditions:

- 1) That prior to final approval, the owner/applicant enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a. The dwelling unit(s) must be installed with air-ducted heating and ventilation system, suitably sized and designed with provision of adding central air conditioning.
 - b. The dwelling unit(s) on the proposed severed and retained lands will be registered with the following noise warnings clauses on title:
 - i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic on King Street East (RR #08) / Charles Street may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)".*
 - ii. *"This dwelling has been fitted with a forced air-ducted heating system and has been designed with the provision of adding central air conditioning at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)".*
 - c. That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.

Dave Galbraith, IBI Group, was in attendance in support of the subject application and the staff recommendation.

2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

Tim McCrabb, Heather & Bruce Woodley, Stewart Jones, Paul & Christine Berry, Sarah & James Francis, Bob Hooten and Meredith & Chris McFarlane were in attendance in opposition to the application.

Sharon Hartigan addressed the Committee on opposition to the subject application. S. Hartigan advised she resides at a property on Rockway Drive, the street borders the Rockway Golf Course and Rockway Gardens. S. Hartigan noted the area residents were disappointed to learn about the applications and that the proposed severances are in compliance with the current Zoning regulations on the street. S. Hartigan commented the applications do not take into consideration the adjacent properties or the neighbourhood, indicating in her opinion it is not good intensification or compatible with Rockway Drive. S. Hartigan further advised if approved she will be required to landscape her backyard to protect her amenity space. S. Hartigan requested the Committee consider deferring the applications to allow a further review of the information outlined in the planning report.

Phil Hartigan stated he was in opposition to the application. P. Hartigan stated the staff report includes comments about being satisfied with the shape of the lots, the desirability and compatibility with the surrounding community, indicating the neighbourhood is comprised of single, semi and multi use dwellings. P. Hartigan advised the residents disagree with these statements, indicating the street is comprised of single detached homes constructed between 1935 and 1953, noting there are no semi-detached dwellings or duplexes. P. Hartigan advised the properties on the street all have 60 ft frontages and the proposed severances would sever a lot from 110 ft wide to four lots having 19 ft frontages. P. Hartigan stated in his opinion the applications contravenes the policies within the City's Official Plan and would have adverse impacts on the Rockway Gardens Cultural Heritage Landscape. P. Hartigan requested a deferral of the application to thoroughly examine the heritage significance of the area, noting the applications are not compatible with Rockway Drive.

The Chair expressed comments that he was surprised not to see additional comments from Heritage Planning staff due to the proximity to Rockway Gardens and the significance of the area. The Chair expressed some concern on how the proposed lots would blend in with the existing neighbourhood.

J. Meader indicated she shared similar concerns to the Chair, stating she was not in support of the proposed applications. J. Meader indicated when reviewing a consent application the Committee must consider a policy within the Official Plan that states "application for consents will only be granted where the lots reflect the general scale and character of the established development pattern of the surrounding land taking into consideration lot frontages, areas and configurations." Following review of the staff report, J. Meader stated she did not see any analysis from the Planning staff or from the Applicants planner to support that policy. Reviewing the location map of the area and reviewing the severance sketch it is completely different from what is surrounding the subject property. J. Meader further advised the street is unique, with a semi-rural cross section and large lots and although she acknowledge development was occurring closer to the intersection, the proposal was not appropriate for the subject lands.

In response to questions, D. Galbraith advised the applicant to date is only proposing the severance of the lots, they have yet to prepare elevation drawings for the proposed semis. D. Galbraith indicated the design would be informed by the character of the neighbourhood as well as the Residential Intensification in Established Neighbourhoods Study (RIENS), indicating the dwellings are proposed to have front yard setbacks of 8.5m which is compatible with the existing homes on the street. D. Galbraith advised the architectural character of the dwellings has not yet been determined.

In response to questions related to the Cultural Heritage Landscape (CHL) study, J. von Westerholt advised the CHL for Rockway Gardens applies to a portion of the street and the golf course. J. von Westerholt stated the CHL is not a heritage designation, although the area was identified, further work would be required to list or designate the area as significant.

Questions were raised regarding the R4 Zoning and when Zoning was updated to permit semi-detached dwellings. J. von Westerholt advised the R4 Zoning has always permitted semi-detached dwellings. C. Dumart advised the current Zoning for the street has been in place since the 1980's.

2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

C. Dumart advised the property is comprised as a double wide lot and would have a similar footprint if the lot was severed in half and single detached dwellings were constructed. C. Dumart further advised the applicant is proposing to further subdivide the semi-detached dwellings so they can each half can be held in separate ownership.

The Chair noted he did not really support the comments of staff related to similar building footprints between the semi-detached dwellings and single detached dwellings, noting he could possibly support two single detached dwellings. The Chair noted semi-detached dwellings are not similar to single detached dwellings.

C. Dumart stated the application does not include a request to add semi-detached dwelling as a permitted use.

S. Hannah stated when reviewing the application, it is clear that the property is a double wide lot. The application through the proposal is tying to make use of the existing Zoning. S. Hannah stated in his opinion the street should be a heritage conservation district and the zoning should only permit single detached dwellings. S. Hannah further advised without knowing what is proposed to be constructed on the property he is currently opposed to the applications. S. Hannah commented the character of the neighbourhood is important in this instance, stating they could possibly construct semi-detached dwellings that are compatible with the adjacent properties, stating a contemporary design in this instance would have an adverse impact on the streetscape.

B. McColl brought forward a motion to refuse the subject applications based on the opinion that the development is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Submission No.: B 2021-021

**Moved by B. McColl
Seconded by J. Meader**

That the application of ADAM DOUGLAS SZUBA, TRACY MARY SZUBA and ROBERTO DRELINI requesting permission to sever a parcel of land identified as Parcel 'B' on the plan submitted with the application having a width of 8.38m, a depth of 32.61m and an area of 263 sq.m., on Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347, 654 Rockway Drive, Kitchener, Ontario, **BE REFUSED.**

It is the opinion of this Committee that the lot to be created through this application is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

Submission No.: B 2021-022

**Moved by B. McColl
Seconded by J. Meader**

That the application of ADAM DOUGLAS SZUBA, TRACY MARY SZUBA and ROBERTO DRELINI requesting permission to sever a parcel of land identified as Parcel 'C' on the plan submitted with the application having a width of 8.38m, a depth of 32.62m and an area of 263 sq.m., on Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347, 654 Rockway Drive, Kitchener, Ontario, **BE REFUSED.**

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

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CITY OF KITCHENER

2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

It is the opinion of this Committee that the lot to be created through this application is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

Submission No.: B 2021-023

Moved by B. McColl
Seconded by J. Meader

That the application of ADAM DOUGLAS SZUBA, TRACY MARY SZUBA and ROBERTO DRELINI requesting permission to sever a parcel of land identified as Parcel 'D' on the plan submitted with the application having a width of 8.38m, a depth of 32.61m and an area of 263 sq.m., on Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347, 654 Rockway Drive, Kitchener, Ontario, **BE REFUSED.**

It is the opinion of this Committee that the lot to be created through this application is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

COMBINED APPLICATION

1. Submission No.: B 2021-024, A 2021-034
Applicant: 59 Carisbrook Dr. Ltd.
Property Location: 59 Carisbrook Dr.
Legal Description: Part Lot 59, German Company Tract

Appearances:

In Support: M. Warzecha
A. Bast

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to sever a parcel of land being irregular in shape at the rear of the property having a width of 38.71m, a westerly depth of 33.22m and an area of 503 sq.m. to be conveyed as a lot addition to the property municipally addressed as 34 Hillcrest Lane. Permission is also being requested for a minor variance to legalize the subject property for have frontage on a private lane whereas the By-law requires all properties to have frontage on a public street.

The Committee considered Development Services Department report DSD-21-051 dated April 9, 2021, recommending approval of these applications, subject to the conditions outlined in the Report.

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

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CITY OF KITCHENER

1. Submission No.: B 2021-024, A 2021-034 (Cont'd)

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with applications B 2021-024 and A 2021-034.

The Committee considered the report of the Grand River Conservation Authority dated April 8, 2021, advising they have no objection to this application subject to the following condition:

- 1) That prior to final approval, the owner/applicant submit the plan review fee of \$430.00.

Submission No.: B 2021-024

**Moved by S. Hannah
Seconded by J. Meader**

That the application of 59 CARISBROOK DR LTD requesting permission to sever a parcel of land being irregular in shape at the rear of the property having a width of 38.71m, a westerly depth of 33.22m and an area of 503 sq.m. to be conveyed as a lot addition to the property municipally addressed as 34 Hillcrest Lane, on Part Lot 59, German Company Tract, on 59 Carisbrook Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner shall provide a building code assessment as it relates to the new proposed property line to the satisfaction of the Chief Building Official. The building code assessment relates to the new proposed property line and any of the buildings adjacent to this new property line and 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.
4. That the owner shall ensure the lands to be severed are to be added to the abutting lands and title is to be taken into identical ownership as the abutting lands. The deed for endorsement shall include that any subsequent conveyance of the parcel to be severed shall comply with Sections 50(3) and/or (5) of the Planning Act, R.S.O. 1990, c. P.13, as amended.
5. That the owner's Solicitor shall provide a Solicitor's Undertaking to register an Application Consolidation Parcels immediately following the registration of the Severance Deed and prior to any new applicable mortgages, and to provide a copy of the registered Application Consolidation Parcels to the City Solicitor within a reasonable time following registration.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

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CITY OF KITCHENER

1. Submission No.: B 2021-024. A 2021-034 (Cont'd)

Submission No.: A 2021-034

Moved by S. Hannah
Seconded by J. Meader

That the application of 59 CARISBROOK DR LTD requesting permission to legalize the subject property to have frontage on a private lane for the purpose of a lot addition requested through Consent Application B 2021-024 whereas the By-law requires all properties to have frontage on a public street, on Part Lot 59, German Company Tract, 59 Carisbrook Drive, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

ADJOURNMENT

On motion, the meeting adjourned at 12:19 p.m.

Dated at the City of Kitchener this 20th day of April, 2021.

Dianna Saunderson
Secretary-Treasurer
Committee of Adjustment

Eric Schneider

From:
Sent: Friday, November 12, 2021 11:38 PM
To: Eric Schneider; Margaret Johnston;

Subject: [EXTERNAL] Re: 400_Westwood_Drive-Application_for_Development-Green_Belt_Neighbourhood_Association_Group_Submission

Re: Direction of Staff to assess the canopy loss in properties under 1 acre in size

Dear Councilor Johnston,

Per the recent circulation through Engage Kitchener
(per <https://f.kitchener.ca/WebLinkExt/DocView.aspx?dbid=0&id=1948958&page=1&cr=1>),
I hope that Staff will be so directed in 2022 to pursue the effects of canopy loss on properties under 1 acre in size.

Sincerely,

Judy-Anne Chapman, Ph.D.
Green Belt Neighbourhood Contact

-----Original Message-----

From: jachapma@aol.com

To: <Eric.Schneider@kitchener.ca>; Margaret.Johnston@kitchener.ca
<Margaret.Johnston@kitchener.ca>

jimchapman1949@aol.com <jimchapman1949@aol.com>
Sent: Fri, Oct 15, 2021 10:18 am
Subject: 400_Westwood_Drive-Application_for_Development-Green_Belt_Neighbourhood_Association_Group_Submission

Dear Eric Schneider,

Thank you for the opportunity to comment on the proposal for development of 400 Westwood Drive.

Colour card stock copies of the Planning Department post cards were delivered to the residences not covered by the Kitchener mail distribution: that is, to the remaining homes on Maple Hill, Glasgow, Knell, Westwood, Huntington, and Gallarno.

Please find attached a group submission for the Green Belt Neighbourhood.

Would you please confirm receipt of this message.

We look forward to upcoming interactions with you.

Our Ward 8 Councillor, Margaret Johnston, is cc'd.

Sincerely,

Judy-Anne Chapman, Ph.D.

Eric Schneider

From: Roger Suffling
Sent: Wednesday, January 12, 2022 10:56 AM
To: Eric Schneider
Subject: [EXTERNAL] RE: Public meet re: development at 396(?) Westwood Dr

Eric, Thank you very much for the follow up. Yes, the notice about the Zoom consultation has just been re-posted and is bigger now. I do hope that the meeting goes well. My interest in this is, as always, to ensure that our neighbourhood is consulted and represented in decision making.

Unfortunately, I have TWO meetings by zoom at the time of the public consultation, so I shall not be able to attend.

Rog.

-----Original Message-----

From: Eric Schneider <Eric.Schneider@kitchener.ca>
Sent: January 10, 2022 5:16 PM
To: Roger Suffling
Cc: Planning (SM) <planning@kitchener.ca>
Subject: RE: Public meet re: development at 396(?) Westwood Dr

Hello Roger,

You called me and we spoke on the phone last week on Thursday Jan 6 about the notice for this meeting. I followed up with the applicant, and they went out to site the following day (Friday Jan 7) and confirmed that the information posted on the notice sign on for the neighbourhood meeting was still there (photo attached). On Friday, I left you a voicemail and let you know.

The site is 400 Westwood, not 396 Westwood so perhaps that is the cause for confusion.

In addition, we also sent out notices to homes within 240 metres of the subject property with the meeting details and inviting them to participate. I have included that notice attached for your information.

Eric Schneider, MCIP, RPP
Senior Planner | Planning Division | City of Kitchener
(519) 741-2200 ext 7843 | TTY 1-866-969-9994 | eric.schneider@kitchener.ca

-----Original Message-----

From: noreply@esolutionsgroup.ca <noreply@esolutionsgroup.ca> On Behalf Of Roger Suffling
Sent: Saturday, January 8, 2022 6:59 PM
To: Internet - Info <Info@kitchener.ca>
Subject: Public meet re: development at 396(?) Westwood Dr

I understand that there is a public meeting coming up on this matter. Nothing is posted on the notice at the site, and I cannot find anything on this web page. Please amend and let me know the details/post the details on web and on site?

Origin: [https://www.kitchener.ca/Modules/News/en?CategoryNames=Public consultations](https://www.kitchener.ca/Modules/News/en?CategoryNames=Public%20consultations)

This email was sent to you by Roger Suffling.

through <https://www.kitchener.ca>.

Eric Schneider

From: Kate Lawson
Sent: Friday, January 14, 2022 4:19 PM
To: Eric Schneider
Cc: Margaret Johnston; Bruce Wyse
Subject: [EXTERNAL] 400 Westwood Dr

Dear Eric:

I wanted to share my thoughts about/reaction to the 400 Westwood meeting.

I believe I heard that:

1. Every property owner is able to apply for a rezoning and each decision is individual; this is in spite of the potential combined effects of each individual decision.
2. Precedence is irrelevant to the decision; but intensification of housing across the street is cited as relevant to the neighbourhood character. This sounded a lot like precedence to me—"we intensified close by, so why not intensify here?"
3. The cutting of 28 mature trees is reasonable/balanced in spite of the fact that Kitchener has adopted a new ambitious tree-canopy goal and we are facing a climate emergency. Note, my own property lost 5 mature trees this year alone to what was, in my experience, an unprecedented windstorm. Climate change will affect the canopy and stormwater management in ways we are only beginning to understand. These factors need to be considered whenever a large number of trees are being cut and an ecosystem affected.
4. The concern of residents is cast as being about "trees"; in fact, it is about a forest ecosystem.
5. Kitchener seeks to intensify housing within city boundaries in order to protect the countryside; this sounds to me as if the Green Belt should thus be treated the same as Weber St or Highland Road, or an empty parking lot.

What was not mentioned explicitly is the profit motive. But for the developer, the point of building four houses where there was one is clearly to get a financial windfall.

Whichever way this decision goes, I think a larger question faces Kitchener City Council in making this and similar decisions. How will it respond to the financialization of the housing market in the midst of a climate crisis?

There is clear and growing evidence of the financialization of the housing market:

<https://www.cmhc-schl.gc.ca/en/nhs/nhs-project-profiles/2019-nhs-projects/financialization-housing>
<https://www.theglobeandmail.com/opinion/article-were-going-to-hear-a-lot-more-about-the-financialization-of-housing/>

If I were a developer, I would buy up every property possible where I thought I could tear down a single family home and build "infill" or intensification. I would choose neighbourhoods that are desirable because of their "character" and because my profit would be higher, and then proceed to build housing that would gradually erase that character. I would make a lot of money.

I realise that I am privileged to live in this neighbourhood. I do not want to be seen as excluding diverse populations, a consideration which was mentioned late in the meeting. But this developer is

not planning to build low-income housing, so let's be realistic when we speak about who doesn't get to live here and why this developer wishes to change the zoning.

Sincerely, Kate Lawson

Eric Schneider

From: Paul Barnhill
Sent: Tuesday, May 17, 2022 1:12 PM
To: Eric Schneider
Subject: [EXTERNAL] 400 Westwood Drive

Good Afternoon Eric

Unfortunately I have just been made aware of this application. We live at : not far from this location I feel allowing this build would be not be advantages to this area. When the town homes were built there were quite a few people added to the community on such a small parcel of land and it made Westwood drive terrible to negotiate and parking was made a lot worse. With adding four more houses, and four more driveways to the street there will be an even worse parking headache and travelling along the street will be even worse. I am finding a lot of people from the town houses still park on the opposite side of the street next to the townhomes across from the allowable parking area. It has made it very congested some days and difficult trying to manoeuvre down the street.

I am hoping you had a number of people oppose this build but I wanted to add my voice to the mix. Don't get me wrong, I agree with growth but just not here. It will make it too congested.

Thank you for your time.

Sincerely

Paul Barnhill

Kitchener, ON. N2M 2Z8

Eric Schneider

From: DENISE NOWAK
Sent: Wednesday, June 8, 2022 10:44 AM
To: Eric Schneider
Cc: Home
Subject: [EXTERNAL] 400 Westwood dr Kitchener

Eric, I left you a message last week but have not heard back.

Can you please advise the status of the application for development at 400 Westwood dr.

Thanks

Denise

Sent from my iPhone

Eric Schneider

From: Paul
Sent: Monday, April 22, 2024 3:08 PM
To: Eric Schneider
Subject: Concept plan for 400 Westwood Drive Kitchener

You don't often get email from

[why this is important](#)

Dear Eric

I have expressed my concerns about this concept plan earlier. I assume this is still in the planning. I have seen several pool company trucks outside the resident and I'm guessing to remove the existing pool in order to make room for the townhouses.

I have huge issue allowing this subdivision to continue. There is very little parking on Westwood currently. When the newest townhome complex was built there were terrible issues with construction and there were several times you couldn't even go down the street. Since then the parking has been a nightmare with people parking on both sides of the street even though there is only one side of the street parking permitted. People backing out of the town homes and semi detached homes create such a risk of being hit since there are so many cars parked as you are driving along Westwood you are not sure if they will see you as they are backing out. I myself have narrowly avoided being hit several times.

Adding five more townhomes with driveways I am assuming there will be even more people parking on the street and those people who currently park there trying to find a parking spot. This will cause blocked access to the street and reducing the two way traffic to a single lane. This concept plan is also very close to the corner of Westwood and Glasgow streets. This will increase the difficulty of turning out onto Glasgow from Westwood not to mention the already tight issues for city buses to maneuver that whole area.

I feel this part of Westwood Drive has reached a maximum of housing. To allow this current plan would create quite a lot of traffic issues not to mention the strain on an already over worked sewer and water infrastructure.

I would appreciate a response and any information regarding any further discussions on this plan.

Sincerely

Paul Barnhill

Kitchener

Pronoun: Human Being

Eric Schneider

From: Joe Jasinskas
Sent: Monday, April 22, 2024 5:33 PM
To: Eric Schneider
Subject: 400 Westwood - Updated Plan - Signage

Importance: High

[You don't often get email from] [Learn why this is important at https://aka.ms/LearnAboutSenderIdentification](https://aka.ms/LearnAboutSenderIdentification)]

Hi Eric,

Hope you are doing well. We just received the updated postcard requesting feedback for the 400 Westwood development. I'm checking in as there is currently no signage posted in front of the 400 Westwood property with the new proposal, and the May 8th deadline for feedback. We are currently just under 2 weeks away from that deadline.

Could you please advise if appropriate signage will be posted with enough time to gather feedback from the community? The last one didn't go up until a couple of days before the deadline.

Thanks in advance,
Joe

—
Joe Jasinskas

Eric Schneider

From: Xiong Ying
Sent: Monday, April 22, 2024 8:32 PM
To: Eric Schneider
Cc: Margaret Johnston
Subject: 400 westwood drive

收到此邮件的某些人通常不会收到来自

电子邮件。[了解为什么这一点很重要](#)

Hello,

I received your information about the construction of five townhomes at 400 Westwood Drive today . As the owner of _____ I strongly protest and oppose:

1. The townhouse built is incompatible with the surrounding environment,
2. Cause serious damage to animal habitat, surrounding trees, grass and environment,
3. Adding to the already congested traffic situation, the situation of random parking becomes even more serious.
4. It will cause serious noise and visual pollution to nearby residents.

In view of this, I firmly oppose this unreasonable planning.

Sincerely,

Ying Xiong

Eric Schneider

From: Sumit C
Sent: Wednesday, April 24, 2024 3:24 PM
To: Eric Schneider
Subject: Comments/feedback- 400 Westwood Drive Application Development

[You don't often get email from <https://aka.ms/LearnAboutSenderIdentification>] [Learn why this is important at](#)

Hello Eric,

Good day and I hope this email finds you well.

I am writing in reference to the flyer received in the mail box regarding the development plan at 400 Westwood Drive, Kitchener.

Summary of comments:- My partner and do not support the development plan; we strongly oppose it.

1. The Westwood Drive road is narrow and congested most of the times. Parking outside 400 Westwood Drive with the current dwelling itself blocks majority of the road. If 5 Street Fronting Townhomes are allowed there, that will make this problem even more severe.
2. The bus stop is also on the same side of the road where the proposed development is marked. The bus stop will also add to the traffic/congestion aspect of Westwood Drive.
3. If we consider the green aspect of the area; The park on Westwood Drive, which was supposed to be functional last year is still barricaded. Therefore, you will see a lot of people taking walks and using Westwood Drive and the proposed area of development to walk. In spite of considering all the tree cover and the green space along the length of Westwood Drive, the residents of 403 Westwood Drive and 423 Westwood Drive will lose their current immediate access across the road to green spaces.
4. The website which is supposed to show the development project on <https://can01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.kitchener.ca%2FPlanningApplications&data=05%7C02%7Ceric.Schneider%40kitchener.ca%7Cdbb3920c4e221d6608dc64942e8c%7Cc703d79153f643a59255622eb33a1b0b%7C0%7C0%7C638495834795447897%7CUnknown%7CTWFpbGZsb3d8eyJWlloiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=IGPhTk6UQYPDerV4kYJVzY%2ByEYDE3kE%2BY7bxvT9ANbw%3D&reserved=0>, doesn't work. I tried to access it 3 times last evening, but the project wasn't listed on it.
5. The road and intersection leading to 400 Westwood Drive (coming from Fisherhallman and Glasgow street intersection) is always congested as well, and is always in need of repairs, the planned development will be adding more than required traffic on both these roads. Also, the speed of this road is 40kmph which will further slow down the traffic.
6. While taking a left turn from Westwood Drive onto Glasgow Street, there is a lot of wait time as traffic has increased in the area. With the addition of these proposed 5 townhomes, this is going to create chaos especially during morning school bus hours and peak hours and rush hours.
7. If these 5 fronting townhomes were facing Glasgow Street, it would have been a better idea, because there is a bike lane there-which is hardly used, and that lane can be used for providing an additional lane for accessing the 5 street fronting townhomes.

Westwood Drive is already suffering from bad roads and extremely delayed lifestyle development. The proposed application for development stands to benefit only a select few (maybe the landowner and the builder alone) and does greater harm to the neighbourhood as a whole. Thus, we strongly oppose the development application of 400 Westwood Drive 5 Street Fronting Townhomes.

Sumit Choudhary

Kitchener
Ontario

Dear Mr. Schneider,

Please accept the following comments on the zoning by-law amendment and proposed development at 400 Westwood Drive, Kitchener (ZBA 21/012/W/ES). I am writing this letter of comment on behalf of our family at _____, the south-adjacent neighbor to the subject property. Given that a great deal of concerns identified with this proposal have already been addressed in part through the Green Belt Neighborhood Association group submission – my comments will focus primarily on the direct impacts to our property,

To summarize briefly: this proposal does not represent sound planning, it fails to address any of the serious concerns identified in the first proposal with respect to our property, it is incompatible with and unreasonably detrimental to its surroundings, it lacks acknowledged required consent agreements necessary for its execution and as such, it should not be approved by the City of Kitchener.

Further, the owner/developer has already begun undertaking inappropriate and possibly unlawful actions related to this proposal, outside of the City-managed process, in violation of their own statements and assurances, and in contravention of clear cautions issued by our lawyers – which have already caused damage to our property and harmed our sense of security in our own home. These actions were outlined in an earlier notice that I submitted on May 6th, 2024 to yourself and City Councilor Margaret Johnston. Such actions are a serious violation of public trust and I reiterate here that they should be taken into consideration by City officials upon review of any and all proposals from this owner/developer, and that our property must be protected from further damages.

A summary of the most serious and urgent concerns we have with the proposal are listed below, and a more detailed elaboration of each are contained in the subsequent pages of this letter.

1. The owner/developer seeks to modify/damage/remove a stone retaining wall and earth berm which is solely our property and which we previously cautioned would not be permitted.
2. The owner/developer seeks to remove nearly all trees present along the boundary which we contend require our written approval and which we previously cautioned would not be granted.
3. The owner/developer seeks to drastically and detrimentally modify the grading throughout the lot (particularly along our shared boundary), greatly increase the proportion of impervious land on the lot (particularly along our shared boundary) and force significantly increased drainage water flows onto our property. This again is in direct contravention of cautions we issued that we would not accept these excess water flows.
4. The owner/developer seeks to change zoning classification in a way which would be unreasonably detrimental and burdensome solely to our property.
5. The owner/developer seeks to remove trees throughout their property such that they would effectively sever our wooded lot from the prevailing mature urban forest to which it belongs.
6. The owner/developer has misrepresented and otherwise shown a pattern of disregard for our property and made no attempts to reconcile any of our previously communicated concerns.
7. The community is unified in opposition to this proposal due to the clear negative impacts and precedent for mature urban forest degradation it represents.

Sincerely,

Saladin and Alen Sahinovic

Points 1 & 2 – The Stone Retaining Wall and Boundary Trees

As previously stated, in both the original proposal and the recent second proposal, the owner/developer of 400 Westwood Drive has incorporated, acknowledged, referred to and implied in numerous parts of their submitted plan documents, including being expressly stated in plan drawings – the demolition, modification and removal of our retaining wall, our trees, and the grading pattern along the shared boundary without our consent.

It is unclear how such a plan could possibly be approved by the City given that it clearly requires our direct consent and approval. It is likewise unclear how such a plan, submitted by an “expert” development firm could be considered adequately prepared for review and consideration for approval/rejection by the City without these requisite permissions.

I reiterate here that upon their submission, and still to this day, the owner/developer has never sought, nor made any attempt to seek any approval from us for the demolition and removal of a purpose-built structure or trees which are solely our property. They failed to do so upon submission of the first proposal where it could perhaps be seen as an oversight, but they again failed to do so for the second proposal, even after our submitted comments clearly indicated that we were unwilling to grant consent. This seems to demonstrate that they disregard our concerns entirely and have no desire to attempt to reconcile any of them within this process.

Aside from the direct demolition of the wall as referenced in the submitted proposals, the secondary effects of grading modifications and tree removals along the shared boundary pose a serious and unacceptable threat to our property and our safety. It is readily apparent, and indeed acknowledged by the developer, that the proposed changes could not be undertaken safely without permitted access to our property and without permitted prior removal of our wall. Thus, it is likewise apparent that the retaining wall, the elevated terrain area (earth berm), supportive grading and the large trees with expansive root systems that exist along that boundary are effectively inseparable and cannot be individually removed or modified without a direct impact to one another, and by extension, such removals or modifications would necessitate mutual agreement between both properties.

The stone wall itself was defined in the original subdivision of the property that created both the and 400 Westwood Drive lots. It was constructed and put in place to serve as a mutually maintained, elevated-terrain shared boundary area to support a natural tree and vegetation buffer which would provide sightline screening and ultimately define the natural character and privacy of both lots. It has existed for these many decades and been mutually, beneficially used and relied upon by both properties for that original purpose, and our normal use and enjoyment of that portion of our land has been sacrificed in support of that usage. The elevated shared boundary, the wall and the trees that exist linearly along it are fundamental to the character of both existing properties. Its presence is particularly important for our property, since our home was designed and built with the screening in mind and has its front oriented facing North, directly toward the boundary with 400 Westwood Drive.

It does not seem reasonable nor just that this shared boundary and all of its features which have served both properties since they were created, could now be unilaterally eliminated by the owner of just one property for the sole benefit of that property, and at the sole detriment of the other.

Points 1 & 2 – The Stone Retaining Wall and Boundary Trees – Continued (Photo, Figure 1)

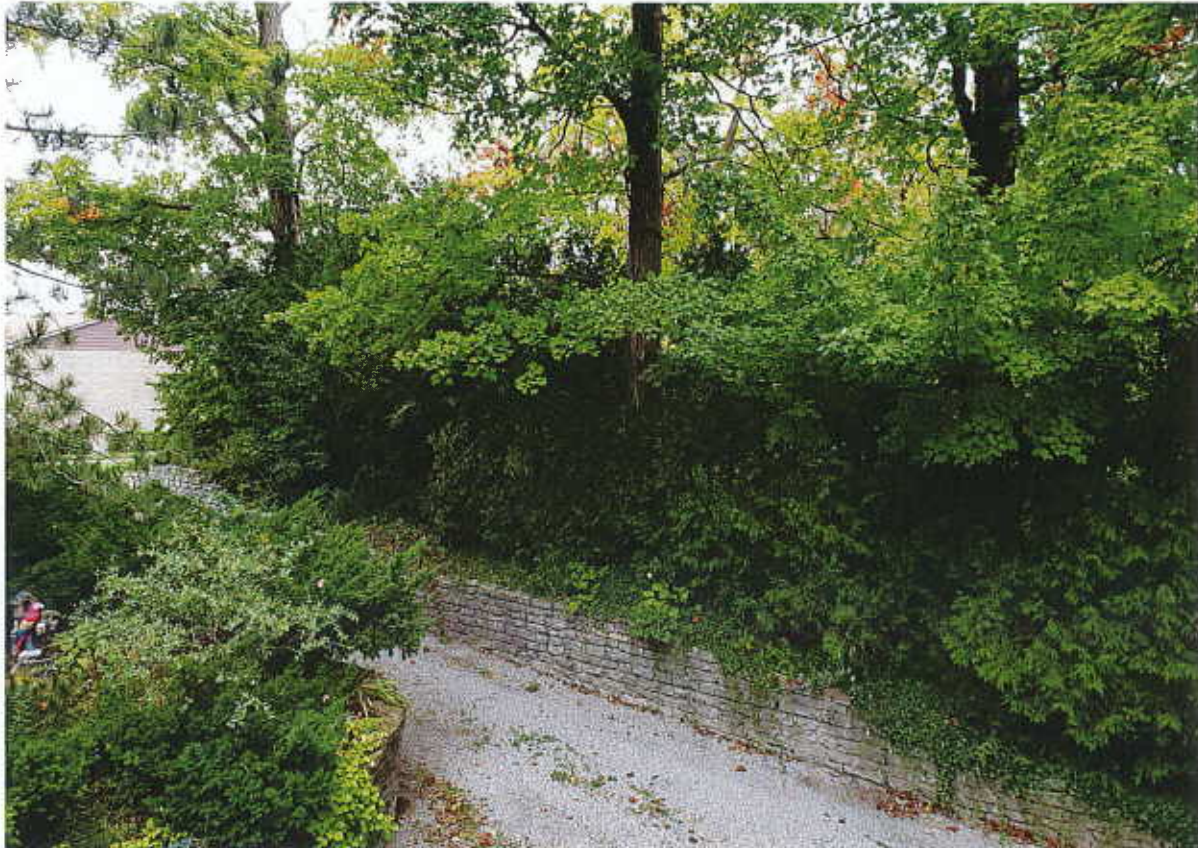


Figure 1: Showing a view of the retaining wall and shared boundary area and shared boundary trees. Dense natural screening obscures sightlines entirely between the properties. The photograph was taken from our elevated porch at the front of our house which is oriented North, directly facing the boundary with the subject property, 400 Westwood Drive.

Engulfed in the foliage and not visible in this photograph is the chain-link fence which represents the actual property line between . and 400 Westwood. Even the hidden chain-link fence is green in colour, selected in consideration of the thoughtful blending of the properties into the natural surroundings of the mature urban forest. The non-visibility of the chain-link property line is an indication of how interwoven and inseparable the features along the boundary truly are.

This proposal seeks to destroy everything shown here beyond the gravel entirely and erect an oppressive 3-storey structure at a distance roughly equivalent to some of the tall trees that can be seen.

Point 3 – Grading and Drainage

As previously mentioned above, and was thoroughly described similarly in our original submission by our professional representatives, the changes proposed to the grading along the boundary in conjunction with the demolition and removal of our retaining wall and the replacement of what are presently exclusively-permeable lands with impervious land and structures along the boundary, represent an obvious, forced redirection of drainage water flows onto our land.

In our prior submissions our representatives clearly cautioned that such modifications and forced redirection of stormwater drainage water flows onto our property would not be accepted by us. It should be apparent that there is no reason why we would be expected to accept and bear such excess drainage water flows onto our property which would clearly be detrimental.

Our permeable gravel driveway, descending from the street/sidewalk elevation level already experiences difficulty in managing even moderate rainfall and tends to create temporary pools and water streams that flow near our house and into our even-lower rear yard.

Additional drainage water flows which would be taken on if this proposal were to proceed as indicated, would critically increase these difficulties and create an unmanageable burden of absorbing stormwater flows on our property which could reasonably be expected to lead to a risk of flooding of our house at the ground level. Further, it would pose a serious risk that these excess water flows would flow down to our home's foundation and lead to catastrophic structural damage. Beyond that, it risks leading to flooding/pooling in our lower rear yard which we expect would potentially destroy our established gardens, vegetation and harm our trees.

The only reasonable and indeed obvious way to proceed with a development and maintain drainage flow patterns which do not adversely affect our property is to: leave intact the totally permeable lands and their favorable grading along the boundary, maintain the wall in its entirety and substantially increase the proposed setback of structures and impervious land to allow the foregoing.

Points 4-7 – Disorderly Zoning, Interface to the Mature Forest, Misrepresentations – (Part 1)

As mentioned above and detailed in the Green Belt Neighborhood Association group submission, this proposal would initiate a breakdown of orderly zoning patterns that have underpinned all previous developments that have occurred in the broader neighborhood and on Westwood Drive in particular.

This is problematic on its own, but is magnified and made even worse given the setting of the subject property in a totally uniform band of R1 zoning and directly within the mature urban forest that exists in that band. No development has taken place in the established mature urban forest which has necessitated a change from the existing zoning – much less a change of 3 zoning classification levels and beyond that, violation of critically relevant minimums of even that newly sought classification.

It is our view, and one that is shared with the community broadly, that protection against these kinds of obviously irregular and incompatible development proposals is precisely why planning reviews and zoning classification exists in our City. This mature urban forest is an irreplaceable asset to the community and to the City, and the unified consensus of the actual residents of our neighborhood in opposition to this proposal is a clear recognition of the importance and inherent value of that community asset and the orderly development patterns that have thus far largely protected it.

In regard to our property, the proposed change of zoning classification for the subject property would completely sever and disconnect our property from the prevailing uniform band of R1 zoning and the contiguous mature urban forest. The proposal weakly attempts to persuade that a drastic multi-classification-level disruption of an otherwise orderly pattern of homogenous zoning bands which thoughtfully interface between one another along the street and throughout the neighborhood, applied only to a single property, is somehow representative of good planning and is “in keeping with surroundings”.

The change as proposed would leave our property isolated and detached from all of the other matching properties in our zoning band, existing as an island with the remaining highly restrictive zoning classification, surrounded on each side by a different zoning classification.

This would in-effect impose a de-facto zoning classification change on our property which we cannot accept and will not consent to. This zoning change solely places an unreasonable burden on our property and our family of 25+ year Westwood Drive residents, while simultaneously, solely serving to benefit the profit-priority motives of the non-resident owner/developer of the subject property.

The weakness of the attempted persuasion is evident in the numerous misrepresentations it makes throughout the proposal regarding our property, the impacts of the proposal, and the context of the setting of the subject property which are outlined in the subsequent pages of this letter.

Points 4-7 – Disorderly Zoning, Interface to the Mature Forest, Misrepresentations – (Part 2)

- In section 1.0 of the “Revised Plan” (April 9, 2024) – “Revised Proposal”, page 2, they state:

“These street townhouse dwellings will be oriented toward Westwood Drive, in keeping with the adjacent townhouse developments”

Comment: This is an untrue and misleading statement. There are no adjacent townhouse developments. The only adjacent properties are R1 single-detached. It suggests that “adjacent” is an appropriate way to describe a development which is outside of the subject zoning band, remotely located in relation to the subject property, and well away down and across the street. It is unsurprising to us that such an untrue and misleading statement would be used as an attempted justification that would serve to support the intent of the proposal.

- In section 1.0 of the “Revised Plan” (April 9, 2024) – “Revised Proposal”, page 2, they state:

“Similar to the original submission, this configuration is designed to conserve the woodlot/vegetation in the northern and eastern extent of the subject property.”

Comment: This appears to be an admission that latest proposal gave due consideration to, and was designed to conserve woodlots and vegetation on only – the northern and eastern sides of the subject property (not on the same street where the subject property resides) while giving no consideration to and devastating everything that even resembles the existing character along the south (the only adjacent property on the same street as the subject property – Westwood Drive). This is unsurprising to us given that it neatly fits what appears to us to be a clear pattern this owner/developer has demonstrated of misdirecting from and disregarding the effects of the proposal, and our clearly communicated concerns, regarding the most detrimentally impacted adjacent property, ours, 396 Westwood Drive (south-adjacent).

- In section 2.0 of the “Revised Plan” (April 9, 2024) – “Planning Analysis”, page 3, they state:

“The proposed development is designed to minimize impacts to the existing woodlot/vegetation on the subject property”

Comment: This is another misleading statement which attempts to weakly reinforce a premise that redevelopment of the existing property with a single 1.5 storey home into 5 lots with 3+ storey townhouses is the only possible approach and that it somehow is designed to minimize impacts to the existing woodlot/vegetation. This premise does not withstand even the most basic scrutiny as countless alternatives are easily possible and indeed better suited to serve the minimization of impacts.

It is of further concern that the development indicated in this proposal is acknowledged by the owner/developer to be “conceptual-only” and if a zoning amendment were to be granted, a yet far more harmful plan could be introduced and enacted on the subject property with little recourse by even the City to mitigate the consequences.

Points 4-7 – Disorderly Zoning, Interface to the Mature Forest, Misrepresentations – (Part 3)

- In section 2.0 of the “Revised Plan” (April 9, 2024) – “Planning Analysis”, page 3, they state:

“The proposed development conforms to the general policies of the ROP [...] contributes to the creation of complete communities, and respects the scale, character, and context of the surrounding established neighborhood. Therefore, a ROP Amendment is not required, as it is our opinion that the proposed development is in conformity with the ROP.”

Comment: This is among the most egregiously misleading and untrue statements offered in this proposal. Given the overwhelming and consistent objections of the community, the critically damaging effects on the mature urban forest, the unprecedented breakdown of orderly zoning patterns, the total incompatibility/dissimilarity of the proposed development to its surroundings and the unreasonably destructive impacts to adjacent properties like ours – it is utterly confounding to attempt to understand the basis for the conclusion drawn above.

- In section 3.0 of the “Revised Plan” (April 9, 2024) – “Conclusion”, page 4, they state:

“We trust that you will find the enclosed resubmission package “complete” to undertake a review of the proposal and recirculation of the Zoning By-Law Amendment Application. As previously mentioned, it is our opinion that the proposed revisions to this application address all of the City comments received to date”

Comment: As I’ve indicated in past submissions and several times in this letter this application/proposal cannot be considered “complete” as stated. Given that even the owner/developer acknowledges that fundamental to development proposed, particularly along the southern boundary, consent agreements with adjacent properties would be required to proceed with the development as outlined. Since no such consent was ever sought by the owner/developer and none was ever granted by us or the other adjacent property owners, the resubmission of this proposal cannot and should not be considered complete.

In addition, it certainly does not “address all of the comments received to date”. In fact, it has addressed absolutely none of the comments or concerns related to the most detrimentally impacted property, whose consent is acknowledged to be required by the owner/developer for fundamental aspects of their proposed plan. This is yet another example of an untrue and misleading statement which misrepresents the context of the proposal in favor of attempting to persuade the reader of something which is false.

There are numerous other similar, critically untrue, misleading and misrepresentative statements that are made in the remainder of this proposal. Indeed, the above statements were collected from only the first four (4) pages of a 46-page submission from the owner/developer.

To refrain from taking more time from the reader of my letter, I will withhold further elaboration of those statements until a later time and simply complete this final section with some images of the zoning map for the local area, and an aerial view of our neighborhood on the next two (2) pages.

Points 4-7 – Disorderly Zoning, Interface to the Mature Forest, Misrepresentations – (Part 4, Figure 2)



Figure 2: Showing an aerial view with:

- Green Belt Neighborhood outlined [GREEN]
- Original 1978 Munk Lot [BLUE]
- Recent similar proposal rejected by OMB [PURPLE]
- Subject property (400 Westwood) [RED]
- Our property [YELLOW]

The proposal seeks to persuade the reader that the proposed development at 400 Westwood [RED] which is described by the owner/developer as being similar to the townhouses that are shown in the south-west-most extent of the neighborhood (development since completed), is “appropriate in the context of the mature urban forest and respects/matches the scale and character of established surrounding developments”.

Shown here also is our property [YELLOW] and how it would be cut off from the contiguous mature urban forest it has always been a part of if the above were to proceed.

Points 4-7 – Disorderly Zoning, Interface to the Mature Forest, Misrepresentations – (Part 5, Figure 3)



Figure 3: Showing the zoning map for the neighborhood. In PINK is the subject property (400 Westwood) and in GREEN is our property

It is clear in the above image that both highlighted properties are part of a uniform band of matched R1 zoning developments.

It is also apparent how this proposal would create an arbitrarily convoluted and irrational pocket of irregular zoning disrupting an otherwise uniform historical pattern of development.

It would also leave our property completely isolated and detached from all of the other matching properties in our zoning band.

Eric Schneider

From: Ali
Sent: Tuesday, May 21, 2024 1:04 PM
To: Eric Schneider; Margaret Johnston
Subject: Re: 400 westwood dr

Some people who received this message don't often get email from ,

[Learn why this is important](#)

Hello,

I opposed to such construction building plan in this neighborhood and that location as it will damage the knot of neighborhood even further. Those townhomes along with the houses beside them and the high rise townhouses in front of them will all make an unpleasant mixture look of neighborhood street design. I hope a new individual buyer by the house and leave in it without further damaging to street design and take away all the greens away.

Ali Mohebbi

Eric Schneider

From:
Sent: Saturday, May 25, 2024 11:45 AM
To: Alen S.; Eric Schneider; Margaret Johnston; Kate Lawson
Subject: Draft Minutes: 396 Westwood's October 2021 letter about 400 Westwood proposal

A pragmatic distribution of draft minutes is needed.

I would usually provide more days for everyone to review before sending to large group; however, Alen's scheduled work trip + my back to back conferences dictates cutting the first round input for yesterday's meeting participants short to say 10 am Monday, plus I'm including Alen and Margaret at this point.

Minutes of in-person meeting about 400 Westwood Drive proposed development - Friday, May 24 2024

**Attendees: Eric Schneider, Senior Planner, Development and Housing Approvals Division
Kate Lawson and Judy-Anne Chapman, concerned Green Belt Neighbourhood residents**

Postponement: Telephone meeting between Eric Schneider and Alen Sahinovic will take place first week of June.

1. March 25, 2024 Kitchener approved Official Plan Amendment (OPA 47) modifies the text of the Official Plan to enable up to four dwelling units to be located on lands which currently permit a single detached dwelling, semi-detached dwelling or street townhouse dwelling; By-law 2024-073 amends Zoning By-law 85-1, and By-law 2024-074 amends By-law 2019-051, known as the Zoning By-law for the City of Kitchener - Enabling Four Units.

Judy-Anne was sent hard copy of City of Kitchener materials after participation in Engage Kitchener interactions about this topic. Eric indicated that these Kitchener approvals await Regional approval. He also indicated that Kitchener plans for implementation for the proposed street townhouse dwellings would permit the four southern most townhouses to have up to 2 units while the northern most one would be permitted 4 (Total potential of 12 dwelling units). These revised maximums will be used in an amended Table in the neighbourhood group submission.

2. Discussion of previous and current proposals for 400 Westwood Drive

Eric provided the full online package of materials on 11 x 18 paper for discussions. As indicated above, a full discussion will take place later with Alen. Eric indicated that he could not find any submission in City files for the first proposal about 396 Westwood concerns of 400 Westwood development's impact, so specific 396 Westwood Drive considerations were not incorporated in the second proposal. Judy-Anne indicated that for the first proposal Mark Dorfman jointly represented the Glasgow property of Joe Jasinskas and Paul Goodwin to the north of 400 Westwood and the 396 Westwood interests of Alen's family; Alen had also referred to first submission legal input. Judy-Anne asked Alen to resubmit his family's first round materials to Eric. The group neighbourhood submission had a summary position for 396 Westwood which was consistent with the formal specific 396 submission(s); it has also been re-submitted for easy reference.

3. Discussion of RES-1 zoning surrounding 400 Westwood Drive

400 Westwood Drive is part of and contiguously surrounded by RES-1 zoning specifically applied to properties with mature urban forest. Since Green Belt Neighborhood's inception in 1978, the time-period specific named zoning for mature urban forest in this area has been applied to the (re-)developments, including the previous 2 re-developments of the property from which the current 400 Westwood remains. Neighbours have recognized and supported the rights of development under in-force named zoning as long as there was tree protection and respected protection of neighbours' trees.

The current proposal to change to RES-4 zoning creates patchwork zoning. i.e. Going south from Glasgow Steet on the east side of Westwood Drive, the proposed zone change for 400 Westwood Drive to **RES-4** would create a patchwork zoning; the 3 current adjacent **RES-1** properties would become: **RES-1**; **RES-4**, **RES-1**, followed by **RES-4** duplexes. The south east corner of 400 Westwood Drive interfaces with an extensive area of **RES-2** single-detached dwellings on Dayman Cres. Note that the **RES-4** duplexes and **RES-2** single-detached dwellings were built on untreed land.

A discussion ensued about options possible under RES-1 zoning that would in particular maximize protection of the street scape earth berm buffer with trees, vegetation, and protection of 396 Westwood property. (Aside: *Economically*, it may be advantageous to the developer to have potential 12 dwelling units clustered on (after variances) 3 RES-1 properties, with front street buffers. It would definitely be advantageous to the whole neighbourhood to maintain RES-1 zoning in this development. It is also very advantageous to the immediate neighbourhood to protect the streetscape berm and fully protect 396 Westwood.)

1. **Currently:** 1 large single family home/1 driveway with potential for 4 dwelling units*
2. **As of right:** 2 large single family homes/1 driveway**, each of which has potential of 4 dwelling units*
3. **With variances:** 3 single family homes/1 driveway**, each of which has potential of 4 dwelling units*

*Per Kitchener approved enabling of 4 dwellings; this comes with understanding of incorporating access for services by City of Kitchener.

**With easements on title during severance.

On Friday, May 24, 2024 at 07:19:01 PM EDT

wrote:

Eric kindly met with Kate and I this afternoon for very productive clarifications about the 400 Westwood first and second proposals.

Alen, Eric cannot find the 2021 submission from your family in the City files. Would you please resend your first set of comments for which I know you had legal input.

Please find attached a resend of the group submission that has a short synopsis about the impact on 396 Westwood that was directionally consistent with your letter.

Eric provided a full print-out of the City materials on the current proposal that I'll bring over for your family in a few minutes as I am unsure when you are leaving for your work trip. Thank you Eric for these materials.

I will update everyone with minutes of this afternoon's meeting in the next day or so.

Judy-Anne

Merged-Annotated Green Belt and Arcadis Principle Directions for 400 Westwood Drive development – Friday, November 08, 2024

Contact: Judy-Anne Chapman, Ph.D., P.Stat.,

Merged-Annotated Principle Directions Note: Three base documents are used as primary sources for this document into which there are thematic extractions from identified emails to maintain the thematic flow.

The following base documents are used:

I. Green Belt Neighbourhood Association Principles:

- Protect and maintain mature urban forest in Green Belt Neighbourhood.
- Development under existing zoning.
- Collaborative interactions with developers that led multiple times to supporting development plans and variances at Planning and Kitchener Council.

II. Appendix 1. Arcadis formal letter of Response (Attached)

III. Appendix 2. Arcadis Plan (Attached)

1. 400 Westwood Drive: part of, and contiguously surrounded by, RES-1 zoning specifically applied to properties with mature urban forest. Since 1978, mature urban forest zoning has been applied to the (re-)developments, including the previous 2 re-developments of the property from which the current 400 Westwood remains. Neighbours have recognized and supported the rights of development under in-force named zoning as long as there was tree protection and respected protection of neighbours' trees.

JC (Judy-Anne Chapman) Response 1. October 29, 2024 1:03 PM

"...Kate (Lawson) and I interacted directly with Alen (Sahinovic; son of _____ owner, Saladin Sahinovic) whose property's repair, protection, and ongoing rights have not been addressed by Christian (Tsimenidis). "

CT (Christian Tsimenidis) Response 1. November 1, 2024 at 2:58 PM

- It is my professional opinion that our client's proposal addresses the concerns pertaining to the trees, as a technical review was prepared by a qualified professional, as per the updated Arborist Report and Tree Management / Enhancement Plan submitted by our firm. Environmental Planning Staff at the City have reviewed this work and accept/concur with the recommendations of this technical review.
- The existing retaining wall leading into and along the driveway of 396 Westwood Drive is not within the property boundaries of 400 Westwood Drive. It is within the property boundaries of 396 Westwood Drive. This is understood by all parties.

- At the appropriate time, as one of the Conditions of the future Consent Application to sever the lands for the townhouses, the City will require that a Lot Grading and Drainage Plan to be prepared by a qualified professional engineer. In the preparation of that plan, the engineer would have to ensure that the existing retaining wall (on 396 Westwood Drive) is not affected by grading or site alteration.
- **The City would review all plans, and when satisfied, approve the plans for implementation.**
- A 2.5 metre side-yard setback from the southern property line (adjacent to 396 Westwood Dr) is proposed on the Concept Plan, which meets the minimum zoning requirement of the RES-4 Zone.
- The proposal meets the general intent and purpose of the Official Plan and Zoning By-law.

JC Response 2. November 1, 2024 4:05 PM

"...First, I need confirmation about several development elements brought forward at the meeting that are not referenced in your response:

1. There are 2 shared trees between 400 and 396 Westwood that Douglas (Stewart) said would be lost during development of the 5th property adjacent to 396; my understanding is that 396 has not given permission for their loss. Does the plan still include removal of the shared trees?
2. You acknowledge that the wall between 400 and 396 is on 396 property. Yet, despite a letter from 396 lawyer stating that there was to be no entrance to 396 without owners' permission, a tree between 400 and 396 was removed, without notice or permission, from the 396 property side, damaging the 396 wall as well as the 396 wall on the far side of the driveway. You are going to provide written acknowledgement, commitment, and statement of timeline for rectifying this situation before proceeding further?
3. Further, will you provide protective measures that will go beyond drainage to cover the existing berm and mature trees, vegetation between 400 and 396, as well as on and supporting 396 property.."

CT Response 2. November 1, 2024 at 04:50:23 PM

To respond to some of your initial questions/comments, please see below:

- The proposed trees to be removed, as well as the one (1) existing tree that was removed in April 2024 due to public safety concerns of large dead branches hanging over the public sidewalk (with City's review and permission to cut) along the southern-property line (396 Westwood Drive) **are ALL within the property boundaries of 400 Westwood Drive.** As per the survey completed, all of the trees proposed to be removed are not shared and are within the boundaries of our client's property. Further, on April 17 and 18 of this year, a licenced arborist from Arcadis was on-site to review the tree removal for those several trees that were of concern to public safety (again, with City's review and permission to cut).
- I may defer to [@Eric Schneider](#) for a response on City process/approvals, but in addition to drainage, all works required for the proposed development go through review and approval from City Staff prior to commencing. The future works will implement the

recommendations and conclusions of the Arborist Report and Tree Management / Enhancement Plan, grading and drainage plan, **and all other required plans** at the Consent Application and Building Permit stage to meet the City's standards.

JC Response 3. November 1, 2024 6:10 PM

...I really need to quickly ask who you think is responsible for at least notifying a neighbour about pending work initiated by a pending developer that is done on the 396 Westwood neighbour's property, with ensuing damage. City Staff had the legal letter from Alen's lawyer.

Surely, it is not the affected neighbour who is responsible for sequelae?

Current status:

→ During city authorized/developer implemented removal of tree between 400 and 396 Westwood Drive:

- The 396 owner was not notified of pending tree removal.
- The work was performed April 2024 from 396 property side, without the owner's permission.
- Damage to 396 property from tree removal has not been repaired.
- Please make arrangements with the 396 owner to repair the damage.

→ Another 2 trees between 400 and 396 Westwood would be lost by the current development proposal:

- Classification is needed about whether these 2 trees are shared.
- The 396 owner does not approve the removal of the 2 trees.
- Any development proposal would need to protect the 2 trees should they be shared with 396; regardless of ownership, the removal of the 2 remaining trees needs to be done in a way which protects 396 trees/property.

2. Current 400 Westwood development proposal:

.1 Change of RES-1 to RES-4 zoning creates patchwork zoning. i.e. Going south from Glasgow Steet on the east side of Westwood Drive, proposed zone change for 400 Westwood Drive to RES-4 would create a patchwork zoning; the 3 current adjacent RES-1 properties would become: RES-1; RES-4, RES-1, followed by RES-4 duplexes. South east corner of 400 Westwood Drive interfaces with an extensive area of RES-2 single-detached dwellings on Dayman Court.

Note:: RES-4 duplexes and RES-2 single-detached dwellings were built on untreed land.

JC Comment 1. November 3, 2024

- That the proposed development's zone change from RES-1 to RES-4 creates patchwork zoning is a fact.
- Patchwork zoning in this neighbourhood may contribute to negative effects on the integrity of the mature urban forest and its preservation as an ecosystem that helps mitigate climate change, absorb large amounts of run off precipitation, and support a wide variety of birds, mammals, and other species.

- **Properties with RES-1 zoning have mature urban forest.**
- **RES-1 zoning has been maintained during (re-)development of RES-1 properties since the 1978 formation of Green Belt Neighbourhood Association.**
- **(Re-)development of RES-4 has been on untreed land.**
- **A physical “treeline” exists at the front of 400 Westwood:** a substantive height mature treed/plant berm.
- **Proposed RES-4 development changes not only zoning, RES-1 to RES-4, but removal of mature treed/plant berm in front of development, physically removes the street “treeline” converting the street appearance to that of RES-4 properties on previously always untreed properties.**
- **We disagree with this proposed breach of zoning “treeline” for it’s negative precedent in the context of Kitchener’s Strategic Plan to protect/maintain and increase canopy cover.**

CT Comment 1. N/A

.2 RES-4 zoning creating 5 street facing town houses requires additional variances: Kitchener enabling of dwelling units, as of right, allows (future owners) total of 12 dwelling units.

CT Comment 2. Appendix 1 – first horizontal row

The proposed development provides for five (5) freehold townhouse units. No Additional Residential Units are proposed.

Alternatively, the Neighbourhood Association proposal provides for one, two or three freehold single-detached dwelling units together with Additional Residential Units that would be rental. This results in a significant different land use and tenure.

JC Comment 2. November 3, 2024

As carefully worded in our point, Kitchener has approved “as of right” conversion of street facing townhouses to permit, by Eric Schneider’s details, future owners for the proposed location 5 freehold townhouse units becoming 12 dwelling units.

We agree that this results in a significant different land use and tenure which is why we brought the matter forward; it is legally what could occur without any say by the neighbourhood should the 5 townhouse units be approved. Our statement is accurate.

3. Goals of alternate principles for 400 Westwood Drive:

.1 Develop under RES-1 with consensus variances from City Staff and Neighbourhood: maintain economically valuable new homes’ privacy behind existing earth berm and mature trees/hedge:

**Option 1: Re-development 1 large single family home/1 driveway;
potential as of right 4 dwelling units.**

**Option 2: As of right 2 large single family homes/1 driveway*;
potential as of right 8 dwelling units**

**Option 3: With Consensus variances:
3 single family homes/1 driveway *;
potential as of right 12 dwelling units**

* With right of way and easements on title during severance.

CT Comment 3. Appendix 1 – left side of second horizontal row

The proposed development provides for five (5) driveways to Westwood Drive, **which could be reduced to three (3) driveways/accesses along Westwood Drive should the driveways be paired.** City Staff have no concerns with five (5) driveways.

JC Comment 3. November 3, 2024

Our concerns stem from the extensive removal of the mature treed/plant berm for the new driveways. As well, Westwood is already heavily used for on street parking in this area which exacerbates traffic flow; even 3 driveways would be problematic. Since 1978, Green Belt has sought consensus solutions with developers. In a discussion with Eric Schneider, we were told that one way to keep the current single access would be to have easement/right-of-way granted.

CT Comment 4. Appendix 1 – right side of second horizontal row

Alternatively, the Neighbourhood Association proposal provides for one (1) access at the current location to Westwood Drive with the intent that easement/right-of-way be granted between the lots.

This results in a different access configuration, and in order to address technical design requirements, this would result in, (1) increasing the building setback to ensure sufficient turning radii, and (2) providing more off-street parking space, thus reducing the tree protection area. Further, this approach requires registered easement/right-of-way and registered development agreements to address maintenance, snow removal and rights of access and to provide for a mechanism of resolving a dispute.

JC Comment 4. November 3, 2024

- Interesting design creativity may not require increased building setbacks, increased turning radii, and reduced tree protection area for very desirable single family lots. Many large single family homes have been advantageously re-developed in the Green Belt area; 2 single family homes could use the paired driveway concept mentioned by CT. Consensus variances with Kitchener Staff, developer and neighbourhood may only be required with 3 single family homes behind mature treed/plant berm. One might consider the creative orientation of existing and appreciated for decades 396 Westwood home, for 1 or 2 end units to have front side access in an upside down “L” (i.e. “l”) or upright “T” pattern. RES-1 zoning, nestled inside mature treed/plant berm, should be attractive to future owners. There would be neighbourhood support for needed variances to permit this. At the in-person meeting with Eric, former Arcadis planner, Douglas Stewart, Kate Lawson, and I, there was consensus for development maintaining current tree protection area at the north and east; we think those protection areas should be maintained. Our differences concern the removal of the western trees along Westwood front of development area, and protection of southern 396 property.
- The current development proposal has **zone change from RES-1 to RES-4, and still requires variances for RES-4.**

→**Note: Option 3, like current development proposal, achieves (eventually) possibility of 12 dwelling units with City variances to existing RES-1, i.e. without a zone change.**

.2 Protects neighbourhood street scape and 396 Westwood with existing large earth berm and mature trees/hedge.

CT Comment 5. Appendix 1 – left side of third horizontal row

The proposed development provides for the removal of the existing stone retaining wall along Westwood.

JC Comment 5. November 3, 2024

The existing stone wall should not all be removed as it inherently supports the stone wall on 396 Westwood which the owners of 396 intend to keep as it is integral to their property and trees on the shared mature treed/plant berm between 400 and 396.

CT Comment 6. Appendix 1 – right side of third horizontal row

Alternatively, the Neighbourhood Association proposal provides for retention of the existing stone wall.

This results in requiring an agreement between the owners to ensure the stone wall is maintained/repared should it remain, and for easements to address access and stormwater management overland flow.

As per the revised Arborist Report and Tree Preservation and Enhancement Plans prepared by Arcadis dated March 27, 2024 the existing vegetation along the existing Westwood Drive frontage is not significant and does not need to be preserved/maintained.

Should the existing retaining wall be preserved, this would “push-back” and/or increase the depth of the building line (access/parking), thus reducing the tree protection area located in the rear portion on the subject lands.

Further, Crime Prevention Through Environmental Design (CPTED) notes that having eyes on the street is a key principle for safety of the street and the neighbourhood. The stone wall and vegetation prohibit meeting that principle.

JC Comment 6. November 3, 2024

- As in comment 5, the 396 Westwood owners do not intend to remove their stone wall which requires sufficient support from the existing stone wall in front of 400 Westwood. I have been in Green Belt >46 years, since the inception of the stone wall, and do not remember a need for repair. It would be arguable that stone wall weakness and loss of mature treed/plant berm arising from insufficient support due to 400's development could be attributable to the development. A legal agreement would need to be on title of 400 new home(s) to protect 396 property.
- If the City of Kitchener were to accept that “Crime Prevention Through Environmental Design” principles in fact *require* the removal of a “stone wall and vegetation,” then the (re-) development of all treed properties in the city would require the removal of mature trees, bushes, berms, etc. This is patently unreasonable.
- Such an interpretation would, moreover, conflict with the principles of the Kitchener “Sustainable Urban Forest Strategy.”
- New motion sensor technology supports CPTED. My 53 year old home has front yard mature tree cover and in the back yard is surrounded by mature trees. We have bright beam motion sensors front and back.
- As described earlier, 400 Westwood is surrounded by mature urban forest. I do not think one needs to remove stone walls and mature treed/plant berm for safety.

CT Comment 7. Appendix 1 – left side of fourth horizontal row

The proposed development ‘aligns with’ the existing building footprint to reduce the potential impact trees.

JC Comment 7. November 3, 2024

Thank you for using the northern and eastern footprints; this should be the case in any development approved to be true to Kitchener's Strategic Plan for Tree Canopy. It needs to be repeated that there is no plan to align with the western or southern footprints with the removal of the berm on the west and no consideration of 396 needs on the south.

CT Comment 8. Appendix 1 – right side of fourth horizontal row

Alternatively, the Neighbourhood Association proposal provides for a larger building footprint to accommodate the primary dwelling and the Additional Residential Units together with the driveway and parking requirements.

This results in the increased depth of the building line (access/parking), a larger building footprint, thus reducing the tree protection area.

JC Comment 8. November 3, 2024

Principles compatible with current zoning, and yes, current building footprint should be followed. I do not think any further development intrusion into existing treed area is warranted, nor do I think the proposed plan should go forward.

CT Comment 9. Appendix 1 – left side of fifth horizontal row

The proposed development would provide for service laterals from the proposed building to the street.

JC Comment 9. November 3, 2024

Proposed development provisions are for 5 units; provisions are only required for a maximum of 3, or 2 more than existing.

CT Comment 10. Appendix 1 – right side of fifth horizontal row

Alternatively, the Neighbourhood Association proposal provides for the service laterals from the proposed building to the street and crossing under the retaining wall.

Results in a more technical/challenging servicing that requires 'boring' under the stone retaining wall.

JC Comment 10. November 3, 2024

'Boring' under the stone wall was never proposed. 1 or 2 RES-1 single homes would surely be more straight forward than 3. Perhaps, if lateral access is too technically difficult to implement 3 RES-1 single homes; a limit of 2 might be considered necessary. Under Kitchener's as-of-right intensification, two singles would permit up to 8 dwelling units.

CT Comment 11. Appendix 1 – left side of fifth horizontal row

The proposed development requires a Zoning By-law Amendment to address the appropriate zoning category and site-specific regulations.

JC Comment 11. November 3, 2024

- Since 1978, re-development approval of RES-1 zoning (or previous zoning designation for mature urban forest) in Green Belt area has been under RES-1 (or previous designation).
- Granting approval of RES-4 zoning would be unprecedented for change from RES-1 to RES-4, as a zoning approved previously only for untreed land in this area.

- The development proposal creates patchwork zoning, and breaches streetscape zoning “treeline” with removal of mature treed/plant berm, by converting it to untreed streetscape.
- Further, variances are required for the **RES-4** implementation.

CT Comment 12. Appendix 1 – right side of fifth horizontal row

Alternatively, the Neighbourhood Association proposal prefers that no Zoning By-law Amendment is required, and variances are utilized to ensure a consistent zoning pattern for the neighbourhood.

The proposed Zoning By-law is in conformity with the Official Plan and is a planning tool permitted as per *The Planning Act*. It is not required that the specific zoning category be the same in the neighbourhood.

JC Comment 11. November 3, 2024

- **The Green Belt Neighbourhood has mixed zoning, and is not looking for the same zoning in the “neighbourhood”.**
- The contention is that **the proposed development and zone change are inappropriate for the “property”** for which it is sought and a negative precedent.
- The development proposal to change a RES-1 zoned property, currently surrounded by RES-1 mature urban forest properties, to a RES-4 zoned property, a zoning previously applied only to development of untreed land in the neighbourhood, is a negative precedent.
- This negative precedent is inconsistent with Kitchener’s aggressive Strategic Plan initiative to increase tree canopy cover.
- Both the proposed RES-4 development and a RES-1 option we suggest would permit as-of-right provision of up to 12 dwelling units. The zoning change has no advantage to increasing housing supply.

City of Kitchener
Zone Change / Official Plan Amendment Comment Form

Address: 400 Westwood Drive
Owner: Zakia Bromand
Application: ZBA 21/012/W/ES

Comments Of: Parks & Cemeteries
Commenter's Name: Lenore Ross
Email: Lenore.ross@kitchener.ca
Phone: 519-741-2200 ext 7427
Date of Comments: October 06 2021

- I plan to attend the meeting (questions/concerns/comments for discussion)
 No meeting to be held
 I do NOT plan to attend the meeting (no concerns)
-

1. Documents Reviewed:

- a. Proposed Concept Plan IBI drawing Concept Plan C01 dated 2021.04.06
- b. Cover Letter dated August 05 2021
- c. Arborist Report IBI document dated May 04 2021

2. Site Specific Comments & Issues:

I have reviewed the documentation as listed above to support a ZBA at 400 Westwood Drive to permit four new residential lots and a lot addition to 787 Glasgow St. Parks & Cemeteries has no concerns or requirements for this application.

Parkland Dedication will be required for the new lots and will be deferred at the ZBA and taken as cash-in-lieu of land at the required Severance application. Dedication requirements are subject to the Parkland Dedication Policy current at the time of that application. The current policy standard rate is 5% of the appraised land value, which is \$9,200 per linear meter of frontage, as per the Street Fronting Residential development land class. Please be advised that the City of Kitchener Parkland Dedication Policy and land class assessment is currently under review.

Street trees will be required along Westwood Drive and implemented through a condition of the Severance application. Tree planting along City street frontages shall conform to Section M of the Development Manual. Tree planting is to be approximately one large stature tree (LS) per 10 lineal meters of frontage with the intent of creating a continuous tree canopy. The number of proposed street trees is subject to available and/or proposed minimum soil volumes, which can be augmented as needed by the use of soil cell technology.

A Street Tree Planting Plan (STPP) will be required as a condition of the Severance applications. The Street Tree Planting Plan (STPP) will include all landscape elements and relevant data that will affect the implementation of street tree plantings, such as proposed and existing utilities and available soil volumes. The plan will be stamped by a certified Landscape Architect and submitted for review and approval to Parks & Cemeteries prior to clearance of Severance conditions.

City of Kitchener
Zone Change / Official Plan Amendment Comment Form

3. Comments on Submitted Documents

No Comments. No issues.

4. Policies, Standards and Resources:

- Kitchener Official Plan Policy

As per Section 8.C.2 – Urban Forests of the Official Plan ...

- policy 8.C.2.16., the City requires the preparation and submission of a tree management plan in accordance with the City's Tree Management Policy (available on the City's Website), as a condition of a development application.
- policy 8.C.2.6., the City will incorporate existing and/or new trees into the streetscape or road rights-of-way and encourage new development or redevelopment to incorporate, protect and conserve existing healthy trees and woodlands in accordance with the Urban Design Policies in Section 13 (Landscape and Natural Features) of the Urban Design Manual (UDM) and the Development Manual.
- Please see UDM Part C, Section 13 and www.kitchener.ca/treemanagement for detailed submission requirements
- City of Kitchener Parkland Dedication Policy
- City of Kitchener Development Manual
- Cycling and Trails Master Plan (2020)
- Parkland Dedication Policy
- Chapter 690 of the current Property Maintenance By-law
- Parks Strategic Plan
- Multi-Use Pathways & Trails Masterplan
- Urban Design Manual

5. Anticipated Fees:

- Parkland Dedication taken as cash in lieu of land at the required Severance application
- Street Tree Planting and Street Tree Planting Plan will be required as a condition of the Severance application.

Internal memo

Development Services Department



www.kitchener.ca

Date: 13 January 2022 (revised 11 March 2022)
To: Eric Schneider, Kitchener Planning
Tim McCormick / Daniella Giovanatto, IBI
From: Barbara Steiner, Senior Environmental Planner
cc: Sandro Bassanese, Kitchener Site Planning
Niall Melanson, Kitchener Engineering
Subject: Zoning By-law Amendment ZBA 21/012/W/ES
400 Westwood Drive
Zakia Bromand

Arborist Report. 4 May 2021. IBI Group. Prepared for Zakia Bromand
Concept Plan. 6 April 2021. IBI Group
Functional Servicing and Stormwater Management Report. 28 Apr 2021. IBI Group
Planning Justification Report. 4 August 2021. IBI Group

Environmental Planning staff has reviewed the (environmental) supporting documentation noted above. Verbal comments and additional input was also provided at a meeting with IBI (T. McCormick) on 2 December 2021.

City Environmental Planning cannot support the Limit of Development as set out in the Arborist Report (IBI Group, 4 May 2021) **nor, therefore, the related Zoning Bylaw Amendment (ZBA)** itself. Reasons are provided in the comments below.

1. The proposed ZBA from R-2 to R-4 is to permit the future development of 4 separate single detached dwellings / lots. Future consents will be required to create the 3 additional lots for new development.
2. Significant treed vegetation exists on the property, and these trees are subject to the City's Council-adopted *Tree Management Policy*. The treed vegetation in this older neighbourhood, characterized by large-lot residential, is a native upland deciduous woodland into which houses were generally positioned so as to retain the forested character of the landscape and the privacy of individual properties. The City's *Tree Management Policy* places high value on native woodland associations like this one.

3. Kitchener's Official Plan (KOP) contains policies in respect of the *Urban Forest* in Section 8.C.2. Objectives are to protect, manage and enhance the urban forest and local biodiversity and preserve the natural appearance, character and aesthetics of the city.
 - o Policy 8.C.2.16. requires the preparation and submission of a tree management plan in accordance with the City's *Tree Management Policy* to support development applications such as ZBAs.
 - o Policies 8.C.2.17 and 8.C.2.18 provide further specific direction for the conservation of all woodlands including those that are not deemed locally or Regionally significant through designation as *Natural Heritage Conservation* in the KOP.

4. The *Arborist Report* and Tree Preservation / Enhancement Plan is complete and meets the requirements of the *Tree Management Policy*. The report describes the existing condition and locations of the component trees of the woodland on the property through their inventory, assessment and mapping.

This report confirms that there are no tree / shrub species of significance at the Regional, Provincial or national level on the property.

5. An aggregation of good quality healthy trees exists at the northwest corner of the property. Specifically, the report states:

A cluster of high-quality Sugar Maples was observed during the field inventory that was located directly north of the existing residence that should be preserved considering their species, health and size.

Tree tag numbers for this cluster include tags #1 through #19 and these are established and mature trees which are in good health—with some inclusions / exceptions of trees in poorer health. Other Sugar Maples in this northwest part of the property include Trees 121 and 122. In addition, two (2) Sugar Maples in this cluster are located in this area on the adjacent lot—Trees A and B.

A tremendous amount of mitigation is proposed in order to retain some of this cluster including a shortened building footprint for the northernmost lot. All of the mitigation proposed still leaves component trees of this cluster impacted by root disturbance which makes even the trees intended to be preserved by the Developer vulnerable to damage and death.

6. Therefore, in light of Comment 5 above, Lot 1 on the proposed concept plan should be eliminated in order to remove impact to, and guarantee the retention of, this high-priority cluster of high landscape value trees and provide an increased buffer and transition to the adjacent R-2 properties to the north. Additionally, Lot 1 does not have a useable rear yard due to the constraints of tree retention in this location.

7. The need for useable rear yards should also be discussed further for conceptual Lots 2-4 to determine if / how the Limit of Development should be reflected in zoning, and the ultimate size / depth / configuration of any future development lots.

8. The area in the northwest corner of the property that supports this cluster of high quality, native trees should be reserved from development and be protectively zoned. This zoning solution should also apply to any future woodland parcel created to the rear of the lot(s) proposed for development (Lots 1-4) and, potentially, to any trees to be retained to the rear of any future structures on any of the new development lots created through future consent.

The zoning may be structured with a Site Specific Provision and will likely require a Property Detail Schedule to define the buildable area and limits of development, and the lands to which the Site Specific Provision(s) appl(y)ies.

City of Kitchener

Zoning By-law Amendment Comments

Project Address: 400 Westwood Drive

File Number: ZBA21/012/W/ES

Comments Of: Transportation Services

Commenter's Name: Dave Seller

Email: dave.seller@kitchener.ca

Phone: 519-741-2200 x 7369

Date of Comments: October 13, 2021

- a. The On-street Parking Plan submitted by IBI Group on Figure number C02, dated 2021-04-06, is acceptable.

Dave Seller, C.E.T.

Traffic Planning Analyst | Transportation Services | City of Kitchener

519-741-2200 ext. 7369 | TTY 1-866-969-9994 | dave.seller@kitchener.ca



The Waterloo Catholic District School Board has reviewed the above application and based on our development circulation criteria have the following comment(s)/condition(s):

A) That any Education Development Charges shall be collected prior to the issuance of a building permit(s).

If you require any further information, please contact me by e-mail at Jordan.Neale@wcdsb.ca.

Thank you,

Jordan Neale

Planning Technician, WCDSB

480 Dutton Dr, Waterloo, ON N2L 4C6

519-578-3660 ext. 2355

No heritage planning concerns.

Victoria

Victoria Grohn (she/her)

Heritage Planner | Planning Division | City of Kitchener

519-741-2200 ext. 7041 | TTY 1-866-969-9994 | victoria.grohn@kitchener.ca

400 Westwood Drive is not regulated by the GRCA, and we have no comment.

Thanks,



Trevor Heywood
Resource Planner
Grand River Conservation Authority
theywood@grandriver.ca

From: Niall Melanson
Sent: Wednesday, January 26, 2022 9:56 AM
To: Eric Schneider
Cc: Emir Ceric; Angela Mick
Subject: 400 Westwood Drive, ZBA21/012/W/ES - Approved FSR

Good morning Eric

Please be advised that Development Engineering and Kitchener Utilities have approved the Functional Servicing Report for the ZBA at 400 Westwood Drive.

Thank you.

Niall Melanson, C.E.T.

Engineering Technologist | Development Engineering | City of Kitchener
519-741-2200 Ext. 7133 | TTY 1-866-969-9994 | niall.melanson@kitchener.ca



PLANNING, DEVELOPMENT
AND LEGISLATIVE SERVICES
Community Planning
150 Frederick Street 8th Floor
Kitchener Ontario N2G 4J3 Canada
Telephone: 519-575-4400
TTY: 519-575-4608
Fax: 519-575-4466
www.regionofwaterloo.ca

Shilling Yip (226) 753-1064
File: C14-60/4/21012

November 8, 2021

Eric Schneider, MCIP, RPP
Planner
Planning Division, Community Services Dept.
City of Kitchener
200 King Street West
Kitchener, ON N2G 4G7

Dear Mr. Schneider:

**Re: Post Circulation Comments
ZBA 21/012/W/ES
400 Westwood Drive
Zakia Bromand
CITY OF KITCHENER**

Region staff has reviewed the above-noted application and provide the following comments for your consideration at this time. The owner is proposing to demolish the existing building and sever the lands into five lots. The zoning of the four residential lots are proposed to be changed to Residential Four Zone (R-4). These 4 lots would have frontage onto Westwood Drive and are each proposed to contain a single detached dwelling. The zoning of the fifth lot is proposed to be changed to Open Space Zone (P-2) to protect the existing woodlot and prohibit development in this area. This latter lot does not have frontage onto Westwood and is proposed to be added as a lot addition to 787 Glasgow Street.

The 0.3584 ha site is designated Urban Area (Built Up Area) in the Regional Official Plan; and designated Built-Up Area in the City of Kitchener Official Plan.

Water Services

Water Services staff has no concern with the application and offer no comments.

Hydrogeology and Source Water

The lands are designated in Wellhead Protection Sensitivity Areas 7 (WPSA) and a small sliver along Westwood Drive designated WPSA 8 on Map 6a of the Regional Official Plan

(ROP). The purpose of the WPSAs and corresponding policies in Chapter 8 of the ROP is to protect the Region's long-term municipal groundwater supplies. Geothermal wells are permitted within WPSA 7 and 8 designation but subject to further study. Hydrogeology and Source Water staff indicated the use of geothermal wells be prohibited on the property. The applicant has also confirmed that he/she has no objection to prohibiting the use geothermal wells at this time.

As such, staff request that a prohibition on Geothermal Wells as defined in Chapter 8 of the Region Official Plan, including vertical open and closed loop geothermal energy systems, be included in the proposed Zoning By-law amendment for the subject lands.

Corridor Planning

The 4 residential lots being created and the property being severed and added to an existing residential land use are within 300 metres the Canadian National Railway right-of-way.

The following warning clause will be required as part of any future Planning Act application(s) for consent or other application. The applicant will be required to enter into a registered agreement with the City of Kitchener to include the following warning clause in all offers of purchase and sale and/or rental agreements for the future 4 residential lots and lot addition:

"Warning: Canadian National Railway (CNR) Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."

Planning Fees

Pursuant to Region Fee By-law 21-01 staff acknowledges receipt of the required ZBA planning review fee received September 30, 2021.

Regional Development Charges

Any future development on the subject lands will be subject to provisions of Regional Development Charges By-law 19-037 or any successor thereof.

Region staff has no objection to proceeding with a recommendation to the City's Committee and Council with a recommendation on the ZBA application at this time subject to the above-noted comments. Please provide a copy of the draft zoning by-law amendment for review and clearance by the Region prior to adoption.

Should you have any questions, please do not hesitate to contact the undersigned.

Yours truly,

A handwritten signature in cursive script that reads "Shilling Yip".

Shilling Yip, MCIP, RPP
Principal Planner

cc. Douglas Stewart, IBI Group

Building; no concerns

Mike Seiling

Thu 4/18/2024 2:25 PM

Hello Eric

Engineering and Kitchener Utilities can provide our clearance. The original Functional Servicing Report is still acceptable.

Thank you.

Niall Melanson, C.E.T.

Project Manager, Development Engineering, City of Kitchener

niall.melanson@kitchener.ca, 519-741-2200 x 7133

200 King St. W., Kitchener, ON N2G 4G7

Hi Eric,

This is not regulated by the GRCA, and we have no comments.

Regards,

Trevor Heywood B.Sc.(Env.)

Resource Planner

Grand River Conservation Authority

400 Clyde Road, PO Box 729

Cambridge, ON N1R 5W6

Phone: 519-621-2761 ext. 2292

Email: theywood@grandriver.ca

www.grandriver.ca | [Connect with us on social media](#)

Hi Eric,

No heritage planning comments or concerns for this application.

Thanks!

Kind Regards,

Deeksha Choudhry, MSc., BES
Heritage Planner | Development and Housing Approvals Division | City of
Kitchener
200 King Street West, 6th Floor | P.O. Box 1118 | Kitchener ON N2G 4G7
519-741-2200 ext. 7602
deeksha.choudhry@kitchener.ca



The attached plan is acceptable.

Dave Seller, C.E.T.

Traffic Planning Analyst | Transportation Services | City of Kitchener
519-741-2200 ext. 7369 | TTY 1-866-969-9994 | dave.seller@kitchener.ca

From: Eric Schneider <Eric.Schneider@kitchener.ca>

Sent: Thursday, April 18, 2024 11:46 AM

To: Dave Seller <Dave.Seller@kitchener.ca>

Subject: RE: TS comments: RECIRCULATION - 400 Westwood Drive (ZBA)

Hi Dave, please see attached on street parking plan provided by the applicant.

Eric Schneider, MCIP, RPP

Senior Planner | Development and Housing Approvals Division | City of Kitchener
(519) 741-2200 ext 7843 | TTY 1-866-969-9994 | eric.schneider@kitchener.ca



City of Kitchener - Comment Form

Project Address: 400 Westwood Dr

Application Type: ZBA

Comments of: Environmental Planning (Sustainability) – City of Kitchener

Commenter's name: Mike Balch

Email: mike.balch@kitchener.ca

Phone: (519)-741-2200 x7110

Written Comments Due: May 8, 2024

Date of comments: May 8, 2024

1. Plans, Studies and/or Reports submitted and reviewed as part of a complete application:

- Sustainability Statement for 400 Westwood Dr as prepared by Arcadis, dated May 7, 2024

2. Comments & Issues:

I have reviewed the supporting documentation (as listed above) to support ZBL application proposing five townhouse dwellings, regarding sustainability and energy conservation, and provide the following comments:

- Although the Ontario Building Code (OBC) is progressive, going forward all developments will need to include energy conservation measures that go beyond the OBC as the City (and Region of Waterloo) strive to achieve our greenhouse gas reduction target.
- **Upon review of the supporting documentation, an updated Sustainability Statement incorporating a more progressive energy conservation and efficient design is required to support the Zoning Bylaw Amendment.**
- The City of Kitchener recognizes and appreciates sustainable measures incorporated in the development such as:
 - The compact and efficient design of an underutilized lands
 - The consideration to encourage greater public transit use
 - The conservation of natural heritage features
- Potential items for consideration are:
 - Whether the building envelope (wall, roof, and window thermal performance) will be designed beyond OBC requirements
 - While it is appreciated that details on internal plumbing furnishings will likely come through a later phase of development, information on whether the use of alternative water supply and demand management systems such as rainwater

harvesting and grey water reuse, or readiness of the development to incorporate such systems in the future, is requested

- Whether building design and orientation will incorporate energy conservation features (i.e. sub-metering of units to allow for more efficient management of energy use on a unit-by-unit basis, white roofing material, orientation of the building and window placement in order to take advantage of passive solar energy gain, etc.).
- Why the implementation of alternative energy systems is not being considered for a project of this scale (including future implementation such as roof design to support Solar Panel installation)
- Support for future implementation of electric vehicle re-charge stations
- Whether the sustainable sourcing of construction and building materials will be considered

3. **Policies, Standards and Resources:**

- Kitchener Official Plan Policy 7.C.4.5. The City will encourage and support, where feasible and appropriate, alternative energy systems, renewable energy systems and district energy in accordance with Section 7.C.6 to accommodate current and projected needs of energy consumption.
- Kitchener Official Plan Policy 7.C.6.4. In areas of new development, the City will encourage orientation of streets and/or lot design/building design with optimum southerly exposures. Such orientation will optimize opportunities for active or passive solar space heating and water heating.
- Kitchener Official Plan Policy 7.C.6.8. Development applications will be required to demonstrate, to the satisfaction of the City, energy is being conserved or low energy generated.
- Kitchener Official Plan Policy 7.C.6.27. The City will encourage developments to incorporate the necessary infrastructure for district energy in the detailed engineering designs where the potential for implementing district energy exists.

4. **Advice:**

- As part of the Kitchener Great Places Award program every several years there is a Sustainable Development category. Also, there are community-based programs to help with and celebrate and recognize businesses and sustainable development stewards (Regional Sustainability Initiative - <http://www.sustainablewaterlooregion.ca/our-programs/regional-sustainability-initiative> and TravelWise - <http://www.sustainablewaterlooregion.ca/our-programs/travelwise>).
- The '[Sustainability Statement Terms of Reference](#)' can be found on the City's website under 'Planning Resources' at ... <https://www.kitchener.ca/SustainabilityStatement>

Good Afternoon Eric,

The Waterloo Catholic District School Board has reviewed the subject application and based on our development circulation criteria have the following comment(s)/condition(s):

A) That any Education Development Charges shall be collected prior to the issuance of a building permit(s).

If you require any further information, please contact me by e-mail at Jordan.Neale@wcdsb.ca.

Thank you,

Jordan Neale

Planning Technician, WCDSB

480 Dutton Dr, Waterloo, ON N2L 4C6

519-578-3660 ext. 2355

City of Kitchener
Zone Change / Official Plan Amendment Comment Form

Address: 400 Westwood Drive
Owner: Zakia Bromand
Application: ZBA 21/012/W/ES - revised circulation 2024

Comments Of: Parks & Cemeteries
Commenter's Name: Lenore Ross
Email: Lenore.ross@kitchener.ca
Phone: 519-741-2200 ext 7427
Date of Comments: April 30 2024

No meeting to be held

1. Documents Reviewed:

- a. Resubmission Package dated April 09 2024 – Arcadis

2. Site Specific Comments & Issues:

I have reviewed the documentation as listed above to support a ZBA at 400 Westwood Drive to permit five new residential townhouse lots and a lot addition to 787 Glasgow St. Parks & Cemeteries has no concerns or requirements for this application.

Parkland Dedication will be required for the new lots and will be deferred at the ZBA and taken as cash-in-lieu of land at the required Severance application or Building Permit application.

Street trees may be possible along the Westwood Drive and will implemented through a condition of the Severance application. Tree planting along City street frontages shall conform to Section M of the Development Manual. Tree planting is to be approximately one large stature tree (LS) per 10 lineal meters of frontage with the intent of creating a continuous tree canopy. The number of proposed street trees is subject to available and/or proposed minimum soil volumes, which can be augmented as needed by the use of soil cell technology.

A Street Tree Planting Plan (STPP) will be required as a condition of the Severance applications. The Street Tree Planting Plan (STPP) will include all landscape elements and relevant data that will affect the implementation of street tree plantings, such as proposed and existing utilities and available soil volumes. The plan will be stamped by a certified Landscape Architect and submitted for review and approval to Parks & Cemeteries prior to clearance of Severance conditions.

3. Comments on Submitted Documents

No Comments. No issues.

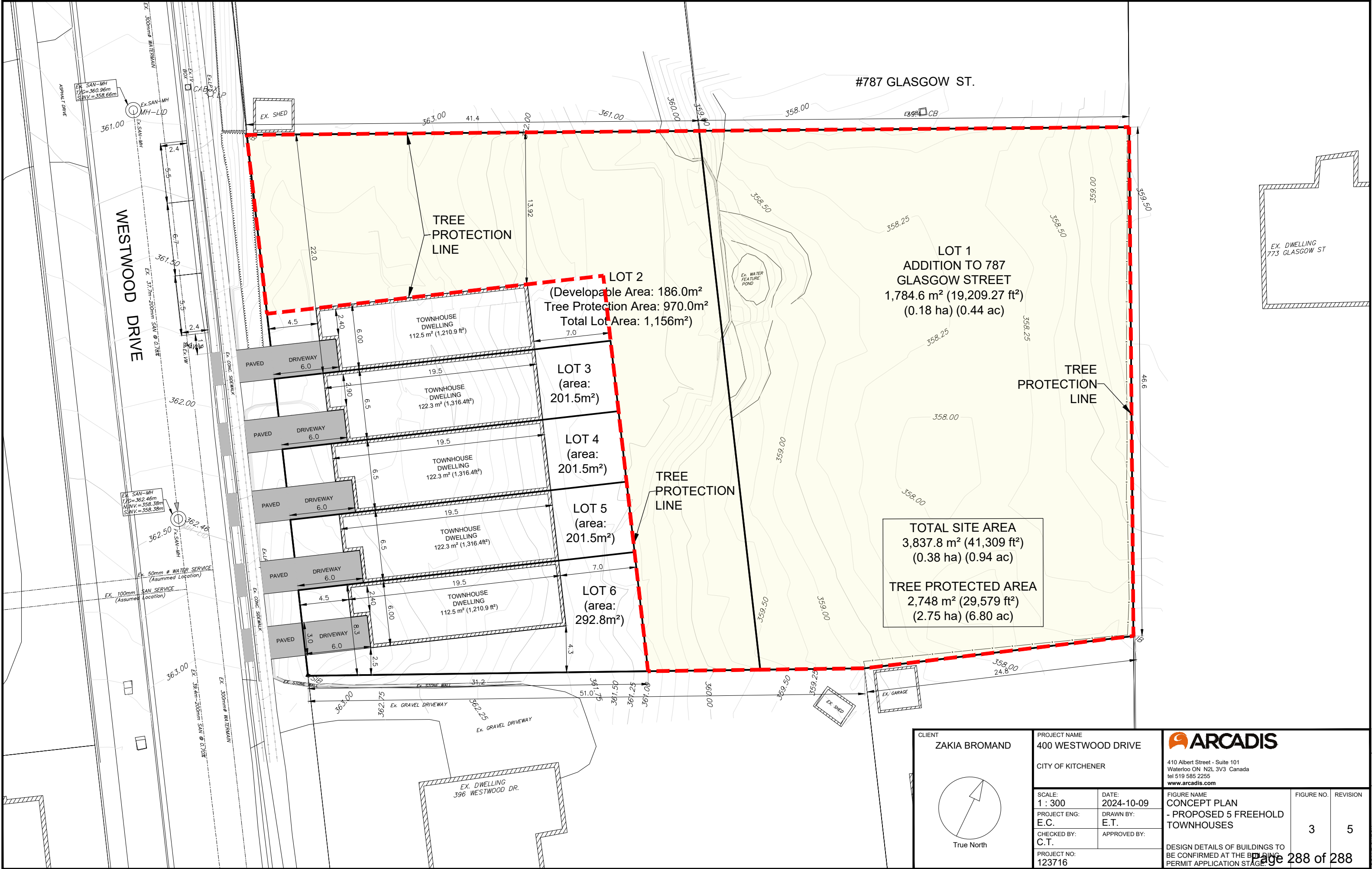
Zone Change / Official Plan Amendment Comment Form

4. Policies, Standards and Resources:

- Kitchener Official Plan Policy
- City of Kitchener Parkland Dedication Policy
- City of Kitchener Development Manual
- Cycling and Trails Master Plan (2020)
- Parkland Dedication Policy
- Chapter 690 of the current Property Maintenance By-law
- Parks Strategic Plan
- Multi-Use Pathways & Trails Masterplan
- Urban Design Manual

5. Anticipated Fees:

- Parkland Dedication taken as cash in lieu of land at the required Severance application or Building Permit issuance
- Street Tree Planting and Street Tree Planting Plan will be required as a condition of the Severance application.



#787 GLASGOW ST.

WESTWOOD DRIVE

TREE PROTECTION LINE

LOT 2
(Developable Area: 186.0m²
Tree Protection Area: 970.0m²
Total Lot Area: 1,156m²)

LOT 1
ADDITION TO 787
GLASGOW STREET
1,784.6 m² (19,209.27 ft²)
(0.18 ha) (0.44 ac)

TREE PROTECTION LINE

LOT 3
(area:
201.5m²)

LOT 4
(area:
201.5m²)

LOT 5
(area:
201.5m²)

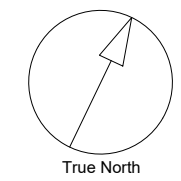
LOT 6
(area:
292.8m²)

TREE PROTECTION LINE

TOTAL SITE AREA
3,837.8 m² (41,309 ft²)
(0.38 ha) (0.94 ac)

TREE PROTECTED AREA
2,748 m² (29,579 ft²)
(2.75 ha) (6.80 ac)

CLIENT
ZAKIA BROMAND



PROJECT NAME
400 WESTWOOD DRIVE

CITY OF KITCHENER

SCALE:
1 : 300

PROJECT ENG:
E.C.

CHECKED BY:
C.T.

PROJECT NO:
123716

DATE:
2024-10-09

DRAWN BY:
E.T.

APPROVED BY:

ARCADIS

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Waterloo ON N2L 3V3 Canada
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www.arcadis.com

FIGURE NAME
CONCEPT PLAN
- PROPOSED 5 FREEHOLD
TOWNHOUSES

DESIGN DETAILS OF BUILDINGS TO
BE CONFIRMED AT THE BUILDING
PERMIT APPLICATION STAGE.

FIGURE NO. REVISION

3 5