

Presentation to the Committee of Adjustment, 21 March 2023

by Kate Lawson and Bruce Wyse

Responding to:

“PLANNING JUSTIFICATION REPORT: Consent to Sever a Residential Lot, 709 Glasgow Street, City of Kitchener [the “Report”]

Date: January 3, 2023

Prepared for: John Gallivan and Susan Homer

Prepared by: MacNaughton Hermsen Britton Clarkson Planning Limited (MHBC)

Submitting Parties:

We are the homeowners at _____, the property adjacent (to the east) to the proposed severed property. Our lot is approximately 1 acre in size.

The “proposed building envelope” on the severed lot is directly adjacent to our portion of mature hardwood forest (principally sugar maple, beech, black cherry, ash, and ironwood) that makes up the Green Belt neighbourhood forest ecosystem. This ecosystem supports a wide variety of birds, reptiles, and large and small mammals, including raptors, songbirds, newts, salamanders, toads, bats, deer, fox, etc. The leaf litter provides breeding grounds for small reptiles and insects.

More generally, the forest provides greenhouse gas and flood mitigation and its root system stabilises the soil, factors particularly important in an age of climate change and extreme weather events. We consider ourselves stewards of this woodland and its place in the larger Green Belt ecosystem in this part of Westmount. We work to actively support the health of our woodland, spending approximately \$3-5,000 per annum to prune dead branches, cut dead trees, and treat ash trees for the emerald ash borer.

The minimum of 36 trees, which this Report states need to be cut adjacent to our property, are a part of this woodland ecosystem and we believe this loss of trees may cause significant damage to the ecosystem generally and to our property in particular.

We are grateful for and enthusiastic supporters of the Kitchener “TREE MANAGEMENT POLICY.” In particular we note:

POLICY NUMBER: 1-1160 SUBJECT: TREE MANAGEMENT POLICY

2.0 INTRODUCTION

The attitude towards the importance of trees has changed to where they are now appreciated not only because of their aesthetics, but also because of the functions they perform such as atmosphere purification, acoustical control,

privacy control, recreational use and historical features. They add to the quality of life within the community and, in some cases, represent the attempt to save the environment.

Our presentation in this document attempts, in all particulars, to recognise these Policy benefits and to align with these Policy goals, both in relation to the overall request to sever and, in particular, in relation to the site of any future “building envelope.”

We are confident that the Committee of Adjustment understands and supports the goals of the “Tree Management Policy” and its recognition of the overall value and importance of trees.

Expertise: We want to stress that we are *laypersons*, doing our best to understand relevant bylaws, policies, and statutes. We have not been provided sufficient time to consult relevant experts and get expert opinions. The brief time allowed us to respond to this long and complex PLANNING JUSTIFICATION REPORT—we only received the Report on the afternoon of March 9—gives rise to concerns about procedural fairness.

In light of the magnitude and impact of the proposed destruction of mature forest and the lack of crucial information in the Report (detailed below), it is our heartfelt request that a decision on the severance be deferred until the concerns we detail below have been fully satisfied and we have had the opportunity to benefit from expert advice.

Position of the Submitting Parties

Generally, we support approval of a minor variance that permits a reduced front width of the newly severed lot to maintain current zoning. We support the planned use of the existing driveway for access to a new house to minimize tree removal.

However, we believe that the request to “sever a residential lot, 709 Glasgow St., Kitchener” is premature and at the very least should be granted only upon more fulsome review of environmental and related concerns. We therefore request that a decision regarding the severing be deferred until: 1) the property line is staked; 2) alternative sites for the “proposed building envelope” are considered and analysed in accordance with the requirements of the Kitchener “*TREE MANAGEMENT POLICY*,” the *Forestry Act Section 10*, etc. (discussed below); and 3) further information is provided:

- a. A complete Tree Management plan, not the “*Preliminary Tree Management plan*” included in the Report;
- b. A copy of the “*Tree Inventory, Management and Protection Plan (MHBC Sept/22) ... prepared by MHBC Planning in September 2022*” (p. 6) referenced but not included in the Report;
- c. An expert opinion on other possible building sites on the severed property to prove that, as stated in the Report and in accordance with *Policy*

8.C.2.6, it is indeed the case that “tree removals have been minimized as much as possible” (p. 13) in the proposed building site.

- d. And, because the report states that the location of the proposed building envelope will have “adverse impacts to existing trees on adjacent properties to the east and south” (p. 13) —that is, adverse impacts to boundary trees and existing trees on our property—that expert opinions be provided 1) to prove that *this* proposed building site has the *fewest* possible adverse impacts on *our* property, compared to other possible building sites on the proposed severed lot; and 2) a legal justification as to why *any* adverse impacts to our trees are allowed by statute. Here again, we feel acutely the lack of expert advice. But, given that the request to sever includes “adverse impacts to existing trees” on our property, **we implore the Committee of Adjustment not to approve this request until all avenues for the best possible mitigation are proven;**
- e. An expert opinion on and analysis of the required grading, excavation, drainage, erosion, etc. and related environmental impacts regarding the proposed building envelope, in relation to our property and the severed property;
- f. An expert opinion on and analysis of endangered, at risk, significant, and protected species in the proposed severed lot and adjacent properties. This may include an EIS level of investigation by the applicants as we believe trees, groundcover, understorey vegetation, wildlife, and species at risk (e.g. salamanders and bats) are present and are covered by relevant statutes.

Note: this is a preliminary list of the further information which we believe the applicants should provide (as noted above, consultation with experts such as land use planners and environmental planning consultants would greatly assist us in finalising this list).

If this request to defer is granted and additional documents are provided, we request at least four months to analyse these additional documents and to seek the expert advice we need (legal, land use planning, environmental consulting, etc.), before the Committee of Adjustment hearing is reconvened.

If this request to defer is not granted, alternatively we request that if and when a severance is approved, specific conditions be attached to such an approval to relocate the position of the “proposed building envelope”. We suggest some conditions on page 5 below, but because—as we have said—we are *not* experts and have *not* had time to seek expert advice, we are not in a position to state exactly what conditions should be attached, only that they must protect the woodland generally and protect our property in particular. We are also concerned in this regard about procedural fairness generally.

We believe that granting a deferral will provide the greatest benefit to *all* concerned: the applicants, ourselves, and the Green Belt woodland neighbourhood.

Please find below our detailed concerns and response to the particulars of the “PLANNING JUSTIFICATION REPORT” (the “Report”).

Concern 1. Limitation on Relevant Information

The property line (that separates our property and the proposed severed lot) is *not* marked on the ground. We have looked but not found any stakes. If the survey was completed in December 2022, we would have expected the whole lot to be staked. The ground is currently covered in knee-high snow.

Given the snow and lack of stakes, we can only guess where the “Proposed Building Envelope” is located in the heavily treed area on the proposed severed lot, and where it is in relation to our property. This lack of on-the-ground information is severely hampering our ability to understand the details of and fully respond to the request to sever.

In addition, the very short timeline (see above) has hampered our ability to fully understand and respond, and to seek expert advice.

Concern 2. The Neighbourhood not properly advised

We had expected to see a sign on the subject property advising neighbours of the proposal to sever. We realised where it was on Thursday, March 16:



Concern 3. Not Conforming to Provincial Policy Statement

We believe the request to sever is premature and that the location of the proposed building envelope does not align with the relevant Provincial Policy Statement as best as possible.

More succinctly, the proposed development has a major impact on trees because the proposed building envelope is situated in the middle of a mature woodland forest and accordingly does not best conform with Provincial Policy.

On pages 7 and 8, the Report references the Provincial Policy Statement (2020): that the PPS provides in *Policy 1.1.1 that healthy, liveable and safe communities are sustained by, among other things, promoting development and land use patterns that conserve biodiversity and prepare for regional and local impacts of a changing climate.* The Provincial Policy Statement provides in *Policy 1.1.3.2 that land use patterns within settlement areas shall be based on densities and mix of land uses which, among other things, minimize negative impacts to air quality and climate change.*

We submit that the proposed building envelope on the severed lot does *not* conform to the PPS as best as it otherwise could. More specifically, the proposed location of the proposed building envelope does not promote development and land use that *conserves biodiversity* as it will result in the destruction of woodland forest which is home to a wide variety of wildlife, plants, and insects (see p. 1 above). Further, the proposed location of the proposed building envelope does not *minimize negative impacts to air quality and climate change* as, if approved, it will result in the destruction of forests which create healthy air and assist with combating climate change.

We further note that the Report states that A *Preliminary* Tree Management plan “has been prepared” (p. 13), but a *Final* plan is not included. The Report makes mention of the fact that a “*Tree Inventory, Management and Protection Plan (MHBC Sept/22) was prepared by MHBC Planning in September 2022*” (p. 6), but it is not included.

Accordingly, the true scale of the development proposed is not fully understood. Details are lacking in the Report on grading, excavation, drainage, erosion, etc. and other related environment details. An analysis of the existing topography, proposed grading/ servicing plans, etc. are needed to properly assess impacts to trees and the ecosystem.

Accordingly, in our view, the proposed new house to be built could better conform with the Provincial Policy Statement by moving the location of the proposed new house away from the densely forested portion of the proposed lot, which is home to many plants and animals, including—we believe—at risk, significant and endangered species (see p. 14 below). For this reason, if severance approval is granted it must be with the condition that the proposed new house be build in an area where less ecological harm will be done (see p. 9 below). If and when an approval to sever is made:

1. The location of the proposed new house be moved to impact the existing forests less;

2. A plan with full tree management and protection conforming to all relevant statutes be attached to the title for the newly created development lot;
3. The owner of the severed lot adhere to maximum building envelope and other specifications;
4. Any tree protection measures in place regarding 709 Glasgow Street must apply to the new severed lot during redevelopment. Severance should not remove tree development protection.

Concern 4.a. Non Conformity to City of Kitchener Official Plan

Policy: Our fourth concern is that the proposed severance and development do not conform to the City of Kitchener Official Plan and the Tree Management Policy.

The elevations on p. 30 of the Report indicate, we believe, a rise of approximately 2 meters in the areas of the “Proposed Building Envelope”—within the area of the proposed severed lot itself and on the area as it continues the slope on our property. These photographs show the slope of our property as it meets the adjoining subject property; in the second photograph (taken from our property), the roofline of the house in the proposed remaining property is visible in the top right. The proposed building envelope site is, we believe, located somewhere in this zone.



This significant incline suggests to us as laypersons that, to prepare the area of the “Proposed Building Envelope” for building, significant grading and very likely further destruction of trees will be required.

The Report mentions grading only once, basically deferring any consideration of and information about this crucial issue: “The plan will be further refined in conjunction with the final grading and drainage plan prior to building permit issuance” (p. 13). We are not reassured by this statement.

The Report also mentions “unusual grade conditions” on page 12 [“15.D.3.12. ... Relief from the building height may be considered for properties with unusual grade conditions”] but we do not have the expertise to understand the relevant implications of this statement, if any.

Again, we feel sorely here the lack of time to receive expert advice and worry about possible procedural unfairness.

Specific requirements of the City of Kitchener Official Plan and the Tree Management Policy:

Minimizing adverse impacts on/optimizing potential benefits for trees and vegetation

The City’s *TREE MANAGEMENT POLICY, 2.0 INTRODUCTION* states, in part:

*An assessment of proposed development impact on trees and vegetation communities is undertaken, so that **adverse impacts are minimized while potential benefits of remaining tree and vegetation communities are optimized...** Rationale is presented to justify tree removal i.e. layout, grading, servicing constraints. ...*

We argue that site of the “Proposed Building Envelope” neither “*minimize[s]*” the “*adverse impacts*” nor “*optimise[s]*” the benefits of remaining trees and vegetation.” No “*rationale*” is offered to justify the choice of this area for the proposed building and thus “*to justify tree removal*”. No information is provided on grading.

Accordingly, we argue that the application’s proposed building envelope site should be rejected (or whatever measures are in the purview of the Committee of Adjustment).

Detailed Vegetation Plan: We note there is no Detailed Vegetation Plan attached, as required by the Kitchener Tree Management Policy:

3.3.1.2 Detailed Vegetation Plan, cont'd

The following information is required:

- *grading information -original grades (surveyed) and proposed grades -cut and fill areas -potential disruption to ground water and surface drainage*
- *symbolized recommendations showing the accurate location of the dripline for, each isolated tree or single species cluster identifying them as 'save', 'remove', 'transplant'*
- *symbolized recommendations showing the accurate location of the dripline for treed areas to be selectively thinned or transplanted*
- *accurate location of new woodland edges (truthed in field) and location and species of recommended plantings (if required) or transplantings*
- *location and nature of recommended protection measures (see Appendix E -Temporary Protection Fencing, Signage and Erosion Control)*

No information on grading, groundwater, erosion, surface drainage, etc. is included in the Report; trees are not individually marked as “save,” “remove” or “transplant”; there is no “accurate location of new woodland edges,” etc.

Tree management plan: We note further that the Application appears to run contrary to the other parts of the City of Kitchener *Official Plan*:

*8.C.2.16. The City will require the preparation and submission of a **tree management plan** in accordance with the City’s Tree Management Policy, where applicable, as a condition of a development application.*

Any tree management plan must identify the trees proposed to be removed, justify the need for removal, identify the methods of removal and specify an ecologically sound tree replacement scheme and any mitigative measures to be taken to prevent detrimental impacts on remaining trees.

The Report states that only “a *Preliminary Tree Management plan* has been prepared.” As noted above, “*Any tree management plan must identify the trees proposed to be removed, [and] justify the need for removal.*”

As noted on p. 7 above, no rationale or justification for “the need for removal” of the 36 trees is offered, no justification of the chosen building envelope site is offered or compared to other possible sites, and the Report does not produce a plan to minimize harms, acknowledged and potential, to the site immediately to the east, i.e. our property.

Significant Habitat of Endangered or Threatened Species; Significant Woodlands; and h) Locally Significant Woodlands: We note that the Official Plan 7.C.2.19 Core Natural Heritage Features also include protections for i) *Significant Habitat of Endangered or Threatened Species*; and g) *Significant Woodlands*; and h) *Locally Significant Woodlands* in relation to 7.C.2.10. and 7.C.2.18. in relation to “*any proposed development, redevelopment or site alteration.*”

Note: Significant or Locally Significant Woodlands are “*ecologically important in terms of: i) features such as species composition, age of trees and stand history; ii) functionally important due to its contribution to the broader landscape because of its location, size or due to the amount of forest cover in the planning area.*”

As noted above on p. 3, section f) we believe the applicants must provide a full EIS and or/an expert opinion on Endangered or Threatened species and Significant or Locally Significant Woodland requirements.

Due to time constraints, we ourselves have had a preliminary verbal opinion on the Woodland question, suggesting that Woodland protections do apply. But again, we have not had time to receive full expert advice on questions related to Endangered or Threatened Species and Woodland status, again raising concerns about procedural fairness.

We conclude that the proposal does *not* conform to the City of Kitchener Official Plan and the Tree Management Policy. The combination of tree cutting, grading, excavation, etc., will have a serious deleterious effect on the woodland as a whole and on our property in particular, through erosion, drainage, and damage to mature tree roots. These factors are not accounted for in the Report and the discussion of the proposed building envelope site.

Concern 4.b. Non Conformity to City of Kitchener Official Plan

The Report's Claims: We address here information in the Report section 5.4 (pp. 11-13) intended to support its conclusion: *"Accordingly, the proposed development will meet all the requirements of the City of Kitchener Official Plan"* (p.13).

As evidence, the Report states that in the plan to sever and the choice of the site of the proposed building envelope and driveway:

*"Consideration has been given to maintaining as many trees as possible in addition to retaining existing screening and views for lands located to the east and south. Specifically Policy 8.C.2.6 speaks to encouraging new development **to protect and conserve existing healthy trees** in accordance with Urban Design policies. In this regard, the **tree removals have been minimized as much as possible** to reduce adverse impacts to existing trees on adjacent properties to the east and south and to maintain existing building setbacks from the street such that street views and buffering of adjacent lands are protected."* (p. 13)

In fact, the site of the proposed building envelope and extended driveway requires the cutting of 36 "healthy trees" (Report 5.4.).

We therefore submit this plan does not *"protect and conserve existing healthy trees in accordance with Urban Design policies."* Rather than *"maintaining as many trees as possible,"* in fact the Report names a building site in the one of the most heavily wooded areas of the severed lot.

If the applicants indeed seek to *"minimize"* tree removals *"as much as possible,"* other locations on this large lot could be chosen:

- a) the *"relatively flat, grassed front lawn area"* (Report, p. 3) at the front of the property would seem to require minimal grading and minimal tree loss (see the photograph of this lawn fronting Glasgow St. in the Report, p. 3); or
- b) the area between the stone retaining wall and the area marked on the plan as *"proposed driveway."* This area would seem to require less grading and less tree loss. This photograph shows the easterly part the current driveway behind the retaining wall.



We are disturbed in particular regarding this claim in the Report:

“tree removals have been minimized as much as possible to reduce adverse impacts to existing trees on adjacent properties to the east and south and to maintain existing building setbacks from the street such that street views and buffering of adjacent lands are protected.” (p. 13)

This statement is an admission that there will in fact be “*adverse impacts to existing trees on adjacent properties to the east*”, i.e. our property. We are not lawyers but have to ask: is this allowed? Are neighbours legally allowed to cause adverse impacts to our trees?

At the same time, this is not surprising given that the proposed building envelope adjoins the most heavily wooded part of our “adjacent property.” Damage seems inevitable if this plan is approved.

Further, this statement directly *contradicts* the Report’s Tree Management section 4.1. (p. 11) which states “All trees adjacent to the proposed building site will be protected and retained as per the Tree Protection Recommendations.”

Either adjacent trees will suffer “adverse impacts” or they will be “protected and retained”: both cannot be true.

As noted above on page 9, other locations are available on this large lot for the building envelope site. We thus argue that *any* “adverse impacts” whatsoever to trees on our property, direct or indirect, are unwarranted and unacceptable.

Equally disturbing is the Report’s admission that the proposed building lot seems to have been chosen to maximise “buffering” and privacy for the *existing dwelling* on the retained lot:

There are additional trees located on the proposed retained lands ... along the westerly perimeter of the property limits which will not be impacted by the proposed development. (p. 13)

In sum: the chosen building site *will* have “adverse impacts” on trees on our property but trees on the retained lot “*will not be impacted*”.

Addendum re “views”: the Report states that by “*maintain[ing] existing building setbacks from the street ... street views and buffering of adjacent lands are protected*” (p. 13).

Note that “forest views” or “rear views” are not named in the Report. Our dwelling is designed to maximize these views; see this photo of the rear elevation of our house.



Preserving the forest to the maximum extent possible is simply the only way to preserve our forest view. These are photos of our current “forest views.” Note the proposed building envelope would occupy the top right of the terrain in each of them.



In summary, we are very concerned that the choice of building site and driveway—far from minimizing harm—requires excessive tree cutting, “adverse impacts to existing trees” on our adjacent property, grading, excavation, erosion, drainage damage, and damage to mature tree roots that will have serious deleterious effects on our property.

We thus argue that the facts presented in the Report do *not* support this conclusion that “*the proposed development will meet all the requirements of the City of Kitchener Official Plan*”. Rather this Application appears to be in contravention of the City of Kitchener’s Official Plan and Tree Management Policy.

Concern 5. Minimal Support for Conclusion reached within the Application

Our fifth concern is that details in the Report regarding the proposed Severance and development provide inadequate support for the claim in 3.2 Westmount Neighbourhood Compatibility that: “*Therefore, the introduction of a new lot and future residential dwelling will be compatible with the other lots and dwellings within the*

Westmount Area, and would be in keeping with the existing lot fabric, in terms of lot width, area, and depth” (p. 5).

Front yard setbacks: In support of this conclusion, the Report states:

The retained and severed lots will have lot widths, areas, depths and front yard setbacks that fall within the range of the other lots within the Westmount Area.

No information is provided on other lots in the Westmount Area (e.g. relevant addresses) or on average front yard setbacks, etc. in support of this claim. Further:

In addition, the proposed larger front yard setback from Glasgow Street is in keeping with the existing homes fronting the south side of Glasgow Street (p. 5)

The “proposed *larger* front yard setback” of the severed property is *not* in keeping with the “existing homes fronting the south side of Glasgow Street.” Of the 14 “existing homes fronting the south side of Glasgow Street” between Knell Drive and Westwood Drive (that is, 685 to 795 Glasgow St.) only the subject property and 715 Glasgow St. have the named “larger front yard setback” (not specified on the drawings; we believe approximately 80 m.)

The average front yard setback of houses on the south side of Glasgow St. (from 685 to 795 Glasgow St.) is, we believe, approximately half that (30-40 m.). No details on these setbacks are provided in the Report. Setback information for houses on Glasgow St. from Knell Dr to Westmount Rd. is not provided either.

Rear yard setbacks

The Report does not compare the rear yard setback of the proposed building envelope to “the existing homes fronting the south side of Glasgow Street.” If you consult Report Figure 1, you will note the proposed rear yard setback is *closer* to the back property line than any other lot fronting the south side of Glasgow Street (685 to 795 Glasgow St.).

Conclusion: we do not believe that credible evidence has been provided to conclude that the “*future residential dwelling will be compatible with the other lots and dwellings within the Westmount Area, and would be in keeping with the existing lot fabric...*”

Concern 6. Tree Management claims in the Application

Our sixth concern relates to the validity of and support for claims made in the Report’s Tree Management section 4.1. (p. 11). This section states, in part:

All trees adjacent to the proposed building site will be protected and retained as per the Tree Protection Recommendations.

As noted above, this statement conflicts with the statement regarding “*adverse impacts to existing trees on adjacent properties to the east*” (see p. 9 above). Further, because

no information provided on grading and excavation, we are not confident that this is correct or possible.

Report section 4.1 continues:

It was determined that a total of thirty-six (36) trees will require removal on the proposed severed lands within the area proposed for the building footprint of the new dwelling....

Figure 2 illustrates the proposed severance sketch as well as the trees that are proposed to be removed to accommodate the new single-detached dwelling.

We ask: “It was determined” how? What “rationale” guided the choice of this proposed building envelope site on one of the most heavily wooded area of the proposed severed lot? As noted above, *the City of Kitchener TREE MANAGEMENT POLICY, 2.0 INTRODUCTION* states that a “rationale” is required to support cutting 36 trees. It is not provided.

Report section 4.1 continues:

*A number of trees along the easterly property limit in the vicinity of the proposed building envelope will be removed to facilitate construction **however, the existing trees on the neighbouring property to the east** coupled with additional plantings that will occur as part of the landscaping proposed to accompany the development **are intended to supplement the tree removals and thereby maintain, buffering and privacy for the existing adjacent residential properties to the east** and south of the subject lands.*

This paragraph raises a number of matters of deep concern and of questionable logic:

- a) “A number of trees along the easterly property limit in the vicinity of the proposed building envelope will be removed to facilitate construction”. Is this in addition to the 36 trees designated for cutting? How many (additional?) trees will be cut on the easterly property limit, i.e. adjacent to our property?
- b) Cutting these trees will cause a loss (an additional loss?) of *buffering and privacy* for us;
- c) BUT “existing trees on the neighbouring property to the east” will “**supplement tree removals**” on the severed property;
- d) And “existing trees on the neighbouring property to the east will **maintain, buffering and privacy for the existing adjacent residential properties to the east**”

The logic is as follows: existing trees on *our own* property will buffer *our* property and maintain privacy for *our* property. This is illogical: trees on our property *cannot* buffer our property. They *are* our property. **And** we, the owners of 697 Glasgow St., are made responsible for remediating the damages to buffering, privacy, and tree loss caused by the owners of 709 Glasgow St.

We thus find these claims regarding Tree Management baffling and unsupported.

Concern 7. Potential contravention of the Ontario Forestry Act Section 10

Our seventh concern is that this statement in the Report 4.1:

A number of trees along the easterly property limit in the vicinity of the proposed building envelope will be removed to facilitate construction

may suggest a possible violation of the Ontario Forestry Act Section 10 regarding “boundary trees”:

Trees common property: (2) Every tree whose trunk is growing on the boundary between adjoining lands is the common property of the owners of the adjoining lands. 1998, c. 18, Sched. I, s. 21.

Offence: (3) Every person who injures or destroys a tree growing on the boundary between adjoining lands without the consent of the land owners is guilty of an offence under this Act. 1998, c. 18, Sched. I, s. 21.

No evidence is provided regarding specific trees to be cut and if any are “boundary trees”; without the property line marked, we ourselves are uncertain how which may be “boundary trees.” Further, no information is provided to prove that any boundary trees are an imminent hazard, which, we believe, is the only admissible reason to “cut down a boundary tree without the other co-owner’s permission.”

Concern 8. Inadequate care for protected, significant, endangered, at risk species

We request an Environmental Impact Study by the applicants as we believe trees, groundcover, understorey vegetation, wildlife, and species at risk (e.g. **salamanders and bats**) may be covered by relevant statutes.

In addition to the protections of the City of Kitchener Official Plan noted above on page 7 (7.C.2.19 Core Natural Heritage Features, *i) Significant Habitat of Endangered or Threatened Species*; *g) Significant Woodlands*; *h) Locally Significant Woodlands*) we draw your attention to other relevant statutes:

The Province:

We argue that this definition of Ecological Value in “*A Place to Grow - Growth Plan for the Greater Golden Horseshoe*” is germane to an assessment of the overall value of the Green Belt forest and thus to the potential harm in the request to sever.

*The value of vegetation in maintaining the health of the key natural heritage feature or key hydrologic feature and the related ecological features and ecological functions, as measured by factors such as the diversity of species, the diversity of habitats, and the suitability and amount of habitats that are available for **rare, threatened and endangered species**.*

Section 4.1. in the Report states that: “*no significant or endangered species were identified on the property*”; however, no details are provided regarding the kind of investigation which was conducted to support of this conclusion.

As we indicate above, we have regularly seen salamanders and bats on the property, which we believe are considered *rare, threatened and endangered species*. We have not had time to investigate all other possible relevant protected *rare, threatened and endangered species*. We therefore request that the applicants conduct a full environmental review of the proposed severed lot and adjoining properties to ensure that all relevant species are fully protected in any development.

The Region

Please also note that the sugar maple, ash, black cherry, beech and ironwood on the subject property are listed as “protected species” under “BY-LAW NUMBER 08-026 OF THE REGIONAL MUNICIPALITY OF WATERLOO A By-law Respecting the Conservation of Trees in Woodlands” (page 8).

Woodland: We have sought an expert opinion regarding the possible “woodland” status of the shaded area in Figure 1 below under Regional bylaws and/or the City of Kitchener Official plan. The provisional verbal opinion is that it *is* a woodland; however, getting a written expert opinion is not possible in the short timeline here.

Until the status of the possible woodland is determined, we request that the Regional regulations for *protected species* be maintained for the subject property.

Figure 1:



Concern 9. Contrary to Growth Plan for the Greater Golden Horseshoe

Our ninth concern is that we believe the proposed severance and building envelope do not align with the *A Place to Grow* Plan:

A Place to Grow: Growth Plan for the Greater Golden Horseshoe A Place to Grow is the Ontario government's initiative **to plan for growth and development in a way** that supports economic prosperity, **protects the environment**, and helps communities achieve a high quality of life.

The stated "Vision" for A Place to Grow is "*a healthy natural environment with clean air, land, and water.*"

We note this Plan prevails where there is a conflict between this Plan and the Provincial Policy Statement. The only exception is where the conflict is between policies relating to the natural environment or human health. In that case, the direction that provides more protection to the natural environment or human health prevails.

Of relevance in A Place to Grow is the statement that:

*building compact and complete communities, and **protecting** ... natural areas will help reduce greenhouse gas emissions and ensure communities are more resilient to the impacts of a changing climate.*

A Place to Grow - Growth Plan for the Greater Golden Horseshoe further provides that:

*Upper- and single-tier municipalities will undertake integrated planning to manage forecasted growth to the horizon of this Plan, which will, among other things, d) support the **environmental** and agricultural **protection** and conservation objectives of this Plan;*

4. Applying the policies of this Plan will support the achievement of complete communities that: ...

*f) **mitigate and adapt to the impacts of a changing climate, improve resilience and reduce greenhouse gas emissions, and contribute to environmental sustainability;***

4 Protecting What is Valuable

4.1 Context

*The GGH contains a broad array of... **lands, features and resources** are essential for the long-term quality of life, economic prosperity, **environmental health, and ecological integrity of the region.** They collectively provide **essential ecosystem services, including water storage and filtration, cleaner air and habitats, and support pollinators, carbon storage, adaptation and resilience to climate change.***

We argue that all of these features may be germane to the tract of woodland which will suffer adverse affects if the proposed building envelope is allowed to proceed.

A provisional verbal expert opinion which we received suggests that *A Place to Grow* Plan is relevant in this matter. However, again, we have also not had time to obtain a complete written expert opinion on this subject.

We therefore submit that the proposed development in the Report may not align with *A Place to Grow: Growth Plan for the Greater Golden Horseshoe A Place to Grow*.

ADDENDUM:

We received the Staff Report to the Committee of Adjustment on Friday March 17.

We are relieved to read the “Environmental Planning Comments” section (pp. 8-9), since the whole sum and substance of our concerns could be addressed by

“require[ing] the proposed new building to be placed in an alternative location than shown on the sketch for severance” and “ensur[ing] minimal impacts to trees and or vegetation on the severed parcel.”

The possible “alternative location[s]” are, we believe, the ones described on p. 9 above.

Our questions about the Staff Report, as laypersons, are:

Re 5.b.i, ii: is the Tree Preservation and Enhancement Plan made public or can it be requested by us? Is there an opportunity for the public [us] to have input into the City's Supervisor before their decision?

Re 6. Is the Tree Preservation Plan made public at this stage and is there an opportunity for the public [us] to comment or express concerns to the City's Director of Planning?

Re the “Environmental Planning Comments” section: Does the Committee of Adjustment have the power to require that **“the proposed new building ... be placed in an alternative location than shown on the sketch for severance”**? If not, what City agent has that power? And again, how can we/the public be kept informed and have input on this question?