

REPORT TO: Committee of Adjustment

DATE OF MEETING: March 21, 2023

SUBMITTED BY: Tina Malone-Wright, Interim Manager, Development Review
519-741-2200 ext. 7765

PREPARED BY: Ben Brummelhuis, Student Planner, 519-741-2200 ext. 7074

WARD(S) INVOLVED: Ward 8

DATE OF REPORT: March 15, 2023

REPORT NO.: DSD-2023-107

SUBJECT: Minor Variance Application A2023-037
Consent Application B2023-010
709 Glasgow Street

RECOMMENDATION:

Zoning By-law 2019-051

- A. That Minor Variance Application A2023-037 for 709 Glasgow Street requesting relief from Section 7.3, Table 7-1 of Zoning By-law 2019-051, to permit a minimum lot width of 20 metres instead of the minimum required 24 metres, in accordance with drawings prepared by Van Harten Survey Inc, dated January 18, 2023, BE APPROVED.
- B. That Consent Application B2023-010 requesting consent to sever a parcel of land having a lot width of 20 metres, a lot depth of 126 metres, and a lot area of 2851 square metres, BE APPROVED subject to the following conditions:
 1. That Minor Variance Application A2023-037 receive final approval.
 2. That the property owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
 3. That the property owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.
 4. That the property 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 size paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
 - 5.

- a) That all structures including the shed, the driveway, and the amour and stone retaining walls be removed from the severed lands to the satisfaction of the City's Supervisor, Development Applications.
 - b) That a Curb Cut Permit is obtained and new driveway is installed to provide vehicular access to the retained lands.
 - i) Prior to any removals of structures on the severed lands, the installation of a new driveway on the retained lands, any site alternation and issuance of curb cut permit, that the property owner shall prepare a Tree Preservation and Enhancement Plan for the retained lands, in accordance with the City's Tree Management Policy, to the satisfaction of and approval by the City's Supervisor, Site Plans. Such plans shall include, among other matters, the identification of a proposed driveway location, existing building, and/or proposed work zone, a landscaped area and the vegetation to be preserved. No changes to the said plan shall be granted except with the prior approval of the City's Supervisor, Site Plans.
 - ii) That the property owner shall implement the Tree Preservation and Enhancement Plan, prior to any tree removal, grading, servicing, or installation of the driveway, the issuance of any demolition, building permits, and/or curb cut permit to the satisfaction of the City's Supervisor, Site Plans.
6. That at the sole option of the City's Director of Planning, the Owner shall enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor, to the satisfaction of the City Solicitor and the City's Director of Planning, which shall include the following:
- a) That the owner shall prepare a Tree Preservation Plan for the severed and retained lands, in accordance with the City's Tree Management Policy, to be approved by the City's Supervisor, Site Plans, and where necessary, implemented prior to any grading, servicing, tree removal or the issuance of building permits. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone (which may require approval of Minor Variance(s)), a landscaped area and the vegetation to be preserved. If necessary, the plan shall include required mitigation and or compensation measures.
 - b) The owner further agrees to implement the approved plan. No changes to the said plan shall be granted except with the prior approval of the City's Supervisor, Site Plans.
7. That the property owner shall:
- a) Complete a Building Code Assessment for the existing dwelling proposed to be retained on the [severed or retained] parcel of land, prepared by a qualified person, to confirm that the proposed property line and any of the building adjacent to this new property line complies with the Ontario Building Code, to the satisfaction of the City's Chief Building Official. The assessment shall address items such as, but not limited to, spatial separation of existing buildings' wall face, and shall include recommendations such as closing in of openings pending spatial separation calculation results.

- b) A Building Permit shall be obtained for any remedial work/ upgrades required by the Building Code Assessment.
8. That the property owner shall make financial arrangements to the City of Kitchener a cash-in-lieu contribution for park dedication equal to \$11,862.00 of the value of the lands to be severed.
 9. That the property owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
 10. That the property owner submits a Development Asset Drawing (digital AutoCAD) for the site (servicing, SWM etc.) with corresponding layer names and asset information to the satisfaction of the City's Director of Engineering Services, prior to deed endorsement.
 11. That the property owner makes financial arrangements for the installation of any new service connections to the severed and/or retained lands to the satisfaction of the City's Director of Engineering Services.
 12. That any new driveways are to be built to City of Kitchener standards at the Owner's expense prior to occupancy of the building to the satisfaction of the City's Director of Engineering Services.
 13. That the property owner provides confirmation that the basement elevation can be drained by gravity to the street sewers to the satisfaction of the City's Director of Engineering Services. If this is not the case, then the owner will need to pump the sewage via a pump and forcemain to the property line and have a gravity sewer from the property line to the street to the satisfaction of the City's Director of Engineering Services.
 14. That, prior to deed endorsement, the property owner shall make financial arrangements for the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
 15. That prior to deed endorsement, the owner/applicant shall submit a valid Section 59 notice.

REPORT HIGHLIGHTS:

- The purpose of this report is to recommend approval of a consent application and associated minor variance applications to permit the creation of a new lot for a single detached dwelling.
- The key finding of this report is that requested minor variance meets the four tests of the Planning Act and requested severance meets the criteria of the Planning Act.
- There are no financial implications.
- Community engagement included circulation of the application via mail, notification by way of the Record and signage placed on the property.
- This report supports the delivery of core services.

BACKGROUND:

The subject property is located at 709 Glasgow Street and has been developed with a single detached dwelling. The lot is approximately 4,043 square metres in area and is bound by Glasgow Street to the north and existing residential properties to the east and west. The surrounding neighbourhood consists of wooded lots and a mix of lot sizes.

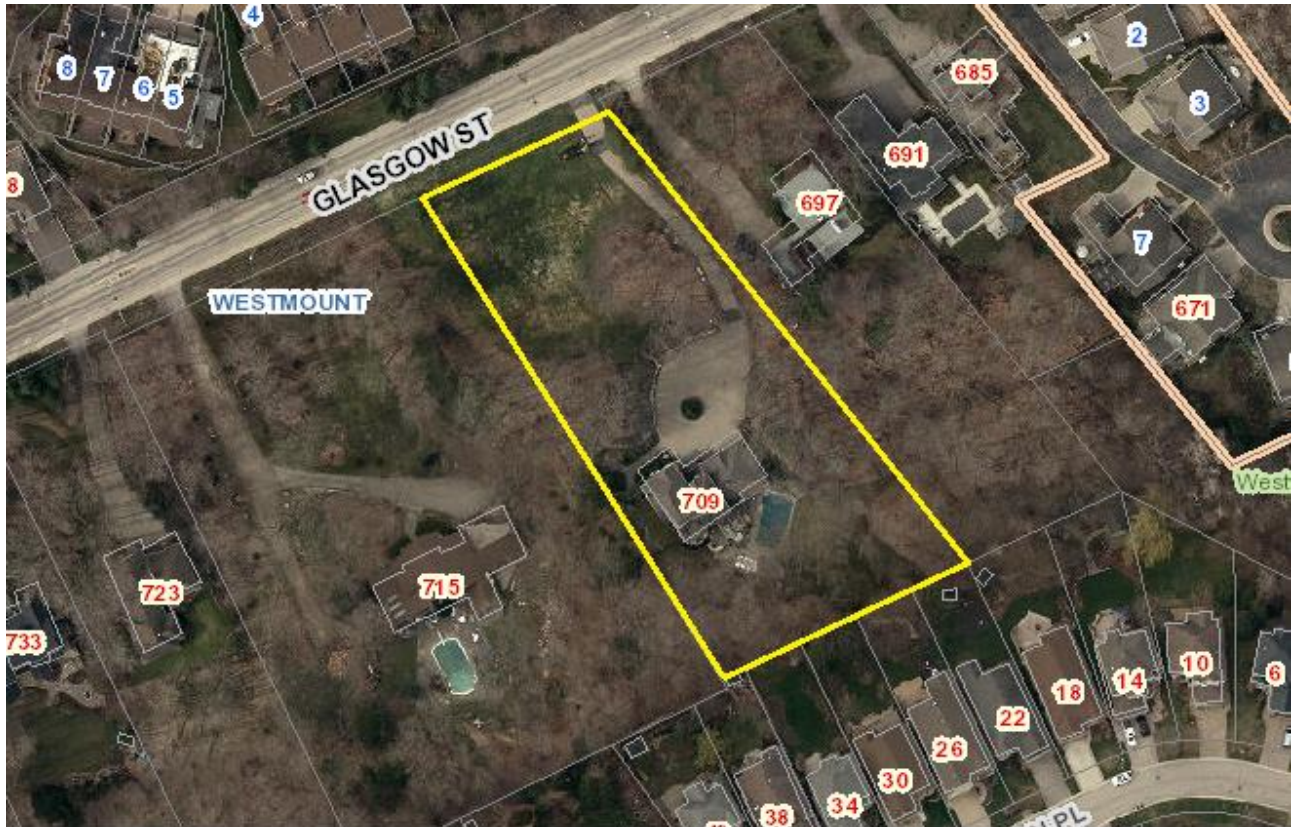


Figure 1 – Ariel Photo of the Subject Site

The subject property is identified as 'Community Areas' on Map 2 – Urban Structure and is designated 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan.

The property is zoned 'Residential Zone 1 (RES-1)' in Zoning By-law 2019-051.

The purpose of the application is to facilitate the severance to create one lot for a single detached dwelling while the retained lot will maintain an existing single detached dwelling.

Staff visited the subject property on March 1, 2023.



Figure 2 – Photo of Subject Property



Figure 3 – Photo of Subject Property

REPORT:

Planning Comments Minor Variance Application A2023-037:

In considering the four tests for the minor variances as outlined in Section 45(1) of the Planning Act, R.S.O, 1990 Chap. P 13, as amended, Planning staff offers the following comments:

General Intent of the Official Plan

The subject property is designated 'Low Rise Residential' on Map 3 – Land Use. The intent of the Low Rise Residential designation is to permit a variety of low-density residential uses and lot sizes with an emphasis on compatibility with the surrounding neighbourhood. The minor variance will facilitate creation of a new lot that will obtain the existing land use designation and promote the construction of a new dwelling similar to the surrounding neighbourhood. Staff is of the opinion that newly created lot will facilitate an appropriate use that provides a mix of residential uses, that is comparable to other structures within the surrounding neighbourhood and the intent of the Official Plan will be maintained.

General Intent of the Zoning By-law

The intent of the 24 metre lot width is to ensure there is adequate space for side yard setbacks, buildable area, minimal impacts to abutting properties, and sufficient lot size. Given that the reduction in the minimum lot width is 4 metres less than the minimum and allows for the appropriate side yard setbacks, buildable area to exist within the newly created lot and poses no impacts to the ability to develop the adjacent lot, and sufficient in size, staff is of the opinion that a reduction from 24 metres to 20 metres in lot width is appropriate and meets the intention of the regulation.

Is/Are the Effects of the Variance(s) Minor?

The effects of the variances are minor in nature. The reduction of the lot width is considered minor as it does not prohibit the function of other regulations, provide adequate buildable area, and impose any impacts on abutting property's ability to develop in the future. Therefore, staff is of the opinion that the requested variance is minor in nature as it does not prohibit the function of side yard setbacks, buildable area, impact adjacent property's ability to develop in the future, and the current property.

Is/Are the Variance(s) Desirable For The Appropriate Development or Use of the Land, Building and/or Structure?

The variance is appropriate for the development and use of the land. The variance will facilitate the severance of a lot that is similar in shape and size to the surrounding neighbourhood. The requested variance is not expected to impact any of the abutting properties or the surrounding neighbourhood as it maintains a similar lot width to properties that is sufficient in size and maintains the existing wooded lot distinctions. Staff is of the opinion that the requested variance will be appropriate for the creation of a new lot and use of land that is coherent with the intention of the Official Plan and Zoning By-law.

Planning Comments Consent Application B2023-010:

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

Provincial Policy Statement (PPS 2014)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. Section 1.4.3(b) of the PPS promotes all types of residential intensification, and sets out a policy framework for sustainable healthy, liveable and safe communities. The PPS promotes efficient development and land use patterns, as well as accommodating an appropriate mix of affordable and market-based residential dwelling types with

other land uses, while supporting the environment, public health and safety. Provincial policies promote the integration of land use planning, growth management, transit-supportive development, intensification, and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs.

Planning staff is of the opinion that the proposed application will facilitate a form of gentle intensification of the subject property with the creation of new lot for a future dwelling unit that is compatible with the surrounding community and will make use of the existing infrastructure. No new public roads would be required for the proposed development. Planning staff is of the opinion that this proposal is consistent with the PPS.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020

The Growth Plan supports the development of complete and compact communities that are designed to support healthy and active living, make efficient use of land and infrastructure, provide for a range and mix of housing types, jobs, and services, at densities and in locations which support transit viability and active transportation. The subject lands are in close proximity to transit and the subject lands are in closer proximity to trails and parks.

Policy 2.2.6.1(a) Municipalities will support housing choice through the achievement of the minimum intensification and targets in this plan by identifying a diverse range and mix of housing options and densities, including additional residential units and affordable housing to meet projected needs of current and future residents.

The subject lands are located within the City's delineated built up area. The proposed development represents intensification and will contribute towards achieving the City's intensification density targets. The severance application will help make efficient use of existing infrastructure, parks, roads, trails and transit. Planning staff is of the opinion that a future development proposal will conform to the Growth Plan.

Regional Official Plan (ROP):

Urban Area policies of the ROP identify that the focus of the Region's future growth will be within the Urban Area. The subject lands are designated Built-Up Area in the ROP. A future proposed development will conform to Policy 2.D.1 of the ROP as this neighbourhood provides for the physical infrastructure and community infrastructure to support the proposed residential development, including transportation networks, municipal drinking-water supply and wastewater systems, and a broad range of social and public health services. Regional policies require Area Municipalities to plan for a range of housing in terms of form, tenure, density and affordability to satisfy the various physical, social, economic and personal support needs of current and future residents. Planning staff are of the opinion that the severance application conforms to the Regional Official Plan.

City's Official Plan (2014)

The subject property is identified as 'Community Areas' on Map 2 – Urban Structure and is designated 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan.

Section 17.E.20.5 of the Official Plan implements Section 51 of the Planning Act and contains policies regarding infill development and lot creation (Consent Policies). These policies state the following:

"17.E.20.5 Applications for consent to create new lots will only be granted where:

- a) the lots comply with the policies of this Plan, any Community Plan and/or Secondary Plan, and that the lots are in conformity with the Zoning By-law, or a minor variance has been granted to correct any deficiencies;

- b) the lots reflect the general scale and character of the established development pattern of surrounding lands by taking into consideration lot frontages, areas, and configurations;
- c) all of the criteria for plan of subdivision are given due consideration;
- d) the lot will have frontage on a public street;
- e) municipal water services are available;
- f) municipal sanitary services are available except in accordance with Policy 14.C.1.19;
- g) a Plan of Subdivision or Condominium has been deemed not to be necessary for proper and orderly development; and,
- h) the lot(s) will not restrict the ultimate development of adjacent properties.”

The proposed lot area and lot width of the retained lot exceed the minimum RES-1 zone lot area and width requirements. The proposed lot area of the severed lot exceeds the minimum RES-1 zone lot area requirement. The proposed width of the severed lot is less than the minimum 24 metres and does not prohibit the functions and intentions of the RES-1 zone for lot width. Planning staff is of the opinion that the size, dimension and shape of the proposed lots are suitable for the use of the lands and are compatible with the surrounding neighbourhood which is developed with a mix of residential uses, that vary in width, depth, and area. The lands front onto a public street and full services are available. There are no natural heritage features that would be impacted by the proposed consent application. Planning staff is of the opinion that the proposed severance conforms with the City of Kitchener Official Plan.

Zoning By-law 2019-051

The subject property is zoned as ‘Low Rise Residential One Zone (RES-1)’ in Zoning By-law 2019-051. The proposed lot size and setbacks will comply with the Council approved RES-1 Zone; however, a variance is required to permit a minimum lot width of 20 metres rather than the minimum 24 metres. Discussion is provided in the minor variance section of this report, and in summary staff are supportive of the requested variances.

Planning Conclusions/Comments:

With respect to the criteria for the subdivision of land listed in Section 51(24) of the Planning Act, R.S.O. 1990, c.P.13, staff is satisfied that the creation of the severed lots are desirable and appropriate. Planning staff is of the opinion that the size, dimension and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding community. There are existing schools within the neighbourhood. Staff is further of the opinion that the proposal is consistent with the Region of Waterloo Official Plan, the Provincial Policy Statement, conforms to the Growth Plan for the Greater Golden Horseshoe and is good planning and in the public interest.

Environmental Planning Comments:

The tree management study, included as part of the Planning Justification Report, was reviewed by Staff. The purpose of the study at this stage in the application process was to inventory the trees and vegetation and demonstrate that there is a suitable building envelope. Staff is satisfied with the study at this stage and note that there is a suitable building envelope on the property, not necessarily in the location as shown on the sketch for severance. At such time as development plans are known for the severed parcel, the Tree Management Plan will be required to be updated prior to any site alteration and building permit issuance. Staff will be reviewing the updated Tree Management Plan

to ensure minimal impacts to trees and or vegetation on the severed parcel. As noted, this may require the proposed new building to be placed in an alternative location than shown on the sketch for severance. The proposed building location may also require Minor Variance(s); i.e front yard setback, depending on where it is proposed to be located on the severed parcel.

As a requirement of the consent application staff recommend the following conditions:

1.
 - a) That all structures including the shed, the driveway, and the armour and stone retaining walls be removed from the severed lands to the satisfaction of the City's Supervisor, Development Applications.
 - b) That a Curb Cut Permit is obtained and new driveway is installed to provide vehicular access to the retained lands.
 - i) Prior to any removals of structures on the severed lands, the installation of a new driveway on the retained lands, any site alteration and issuance of curb cut permit, that the property owner shall prepare a Tree Preservation and Enhancement Plan for the retained lands, in accordance with the City's Tree Management Policy, to the satisfaction of and approval by the City's Supervisor, Site Plans. Such plans shall include, among other matters, the identification of a proposed driveway location, existing building, and/or proposed work zone, a landscaped area and the vegetation to be preserved. No changes to the said plan shall be granted except with the prior approval of the City's Supervisor, Site Plans.
 - ii) That the property owner shall implement the Tree Preservation and Enhancement Plan, prior to any tree removal, grading, servicing, or installation of the driveway, the issuance of any demolition, building permits, and/or curb cut permit to the satisfaction of the City's Supervisor, Site Plans.
2. That at the sole option of the City's Director of Planning, the Owner shall enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor, to the satisfaction of the City Solicitor and the City's Director of Planning, which shall include the following:
 - a) That the owner shall prepare a Tree Preservation Plan for the severed and retained lands, in accordance with the City's Tree Management Policy, to be approved by the City's Supervisor, Site Plans, and where necessary, implemented prior to any grading, servicing, tree removal or the issuance of building permits. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, a landscaped area and the vegetation to be preserved. If necessary, the plan shall include required mitigation and or compensation measures.
 - b) The owner further agrees to implement the approved plan. No changes to the said plan shall be granted except with the prior approval of the City's Supervisor, Site Plans.

Heritage Planning Comments:

Heritage Planning has no concerns.

Building Division Comments:

Building Division has no concerns with the minor variance application.

The Building Division has no objections to the proposed variance provided building permit for the new single detached dwelling is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

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

1. A qualified designer is retained to complete a Building Code Assessment as it relates to the new proposed property line and any of the building adjacent to this new property line shall address such items as: Spatial separation of existing buildings' wall face to the satisfaction of the Chief Building Official. Closing in of openings may be required, pending spatial separation calculation results.
2. A building permit shall be obtained for any remedial work/ upgrades that may be required by the Building Code Assessment.

Engineering Division Comments:

Engineering has no concerns with the minor variance application.

Engineering has the following comments with respect to the application for consent.

- Severance of any blocks within the subject lands will require separate, individual service connections for sanitary, storm, and water, in accordance with City policies.
- The owner is required to make satisfactory financial arrangements with the Engineering Division for the installation of new service connections that may be required to service this property, all prior to severance approval. Our records indicate sanitary, storm and water municipal services are currently available to service this property. Any further enquiries in this regard should be directed to eric.riek@kitchener.ca
- Any new driveways are to be built to City of Kitchener standards. All works are at the owner's expense and all work needs to be completed prior to occupancy of the building.
- A servicing plan showing outlets to the municipal servicing system will be required to the satisfaction of the Engineering Division prior to severance approval.
- A Development Asset Drawing (digital AutoCAD) is required for the new site infrastructure with corresponding layer names and asset information to the satisfaction of the Engineering Division prior to severance approval.
- The owner must ensure that the basement elevation of the building can be drained by gravity to the street sewers. If this is not the case, then the owner would have to pump the sewage via a pump and forcemain to the property line and have a gravity sewer from the property line to the street.

Parks/Operations Division Comments:

Cash-in-lieu of park land dedication will be required on the severed parcel as 1 new development lot will be created. **The cash-in-lieu dedication required is \$11,862.** Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of 20.11m at a land value of \$36,080 per frontage meter with a per unit cap of \$11,862.

Transportation Planning Comments:

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

Region of Waterloo Comments:

The applicant is proposing to sever a parcel of land having a lot width of 20 metres along Glasgow Street, a lot depth of 126 metres and a lot area of 2,581 square metres for a new single detached dwelling. The lands to be retained will have a lot width of 26 metres along Glasgow Street, a lot depth of 125 m and a lot area of 4,043 square metres and will contain an existing single detached dwelling addressed as 709 Glasgow Street.

Regional Fee (Advisory Comments):

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

Source Protection Plan Compliance (Section 59 Notice):

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

The Region has no objection to the proposed application, subject to the following conditions:

1. That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per consent application.
2. That prior to final approval, the owner/applicant submit a valid Section 59 notice.

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

The Ministry of Transportation Comments:

The Ministry of Transportation (MTO) has no requirement for this application. The subject property is located beyond MTO limits of permit control and therefore MTO review, acceptance and permits will not be required.

Grand River Conservation Authority (GRCA) Comments:

The GRCA has no concerns.

STRATEGIC PLAN ALIGNMENT:

This report supports the delivery of core services.

FINANCIAL IMPLICATIONS:

Capital Budget – The recommendation has no impact on the Capital Budget.

Operating Budget – The recommendation has no impact on the Operating Budget.

COMMUNITY ENGAGEMENT:

INFORM – This report has been posted to the City's website with the agenda in advance of the Committee of Adjustment meeting. A notice sign was placed on the property advising that a Committee of Adjustment application has been received. The sign advises interested parties to find additional information on the City's website or by emailing the Planning Division. A notice of the application was mailed to all property owners within 30 metres of the subject property.

PREVIOUS REPORTS/AUTHORITIES:

There are no previous reports/authorities related to this matter.

- *Planning Act*
- *Provincial Policy Statement (PPS 2020)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan (ROP)*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*

ATTACHMENTS: Attachment A – Planning Justification Report