

REPORT TO: Committee of Adjustment

DATE OF MEETING: October 18, 2022

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

PREPARED BY: Katie Anderl, Senior Planner, 519-741-2200 x7987

WARD(S) INVOLVED: Ward 1

DATE OF REPORT: October 12, 2022

REPORT NO.: DSD-2022-452

SUBJECT: Minor Variance Application A 2022-127, A 2022-128 and Consent Application B 2022-056 – 192 Woolwich Street – Emil Burca – GSP Group (Kristen Barisdale)

RECOMMENDATION:

- A. That Minor Variance Application A2022-127 for 192 Woolwich Street (lands to be retained as per B2022-056) requesting relief from Section 34.3.2 of Zoning By-law 85-1, to permit a minimum lot width of 25.97 metres instead of 60 metres; a minimum lot area of 3595 metres square instead of 0.4 hectares (4000 metres squared); and a minimum side yard setback of 2.0 metres rather than 7.5 metres for an existing single detached dwelling, BE APPROVED.
- B. That Minor Variance Application A2022-128 for 192 Woolwich Street (lands to be severed as per B2022-056) requesting relief from Section 34.3.2 of Zoning By-law 85-1, to permit a minimum lot width of 33.47 metres instead of 60 metres; and a minimum side yard setback of 2.0 metres rather than 7.5 metres, to facilitate the creation of a new lot for a new single detached dwelling, BE APPROVED.
- C. That Consent Application B2022-056 requesting consent to sever a parcel of land having a lot width of 33.5 metres, a lot depth of 110 metres and a lot area of 4586 square metres, BE APPROVED subject to the following conditions:
 1. That Minor Variance Applications A2022-127 and A2022-0128 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. That the property owner shall:
 - a) complete a Building Code Assessment for the existing dwelling proposed to be retained on the 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.
6. That the property owner shall convey to the City of Kitchener, without cost and free of encumbrance, an approximately 3.96-metre-wide road widening along the entire severed parcel's Woolwich Street frontage and along a portion of the retained parcel's Woolwich Street frontage, as shown on the severance sketch, to the satisfaction of the City's Director of Transportation Services.

Prior to conveyance, the property owner:

- a) shall prepare, at their cost, a Phase I Environmental Site Assessment and, if required by the City's Director of Engineering Services, a Phase II Environmental Site Assessment for the portion of the lands being dedicated for a road widening, to the satisfaction of the City's Director of Engineering Services; and
 - b) shall remove, at their cost, any hazard trees, as identified on the approved Tree Preservation and Enhancement Plan, from the lands the lands being dedicated for a road widening, to the satisfaction of the City's Director of Parks and Cemeteries.
7. That the property owner provides a Servicing Plan showing outlets to the municipal servicing system to the satisfaction of the City of Kitchener's Director of Engineering Services.

The property owner is responsible to implement the approved servicing design at their cost and to the satisfaction of the City of Kitchener's Director of Engineering Services.

Further, the property owner shall enter into any servicing easement or encroachment agreement that may be required by the municipality, to the satisfaction of the City Solicitor and Director of Engineering. Terms of the easement agreement may include considerations such as costs, maintenance responsibilities, off-site works and associated service upgrades, etc.). All costs associated with the preparation such an easement or encroachment agreement shall be the responsibility of the property owner.

8. That the property owner submits a Development Asset Drawing (digital AutoCAD) for the site (servicing, etc.) with corresponding layer names and asset information to the satisfaction of the City's Director of Engineering Services, prior to deed endorsement.
9. 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.
10. 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.
11. 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.
12. That the property owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication equal to \$11,862.00.
13. That at the sole option of the City's Chief Fire Prevention Officer the property 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 Chief Fire Prevention Officer, and registered on title of the severed lands, which shall include the following:
 - a) The owner agrees that no building permits shall be applied for until satisfactory arrangements are made with the CITY'S Chief Building Official to install and maintain a direct-to-fire alarm monitoring system. Satisfactory arrangements shall be the submission of drawings showing the hardwiring of the dwelling.
 - b) No occupancy shall be permitted until the CITY'S Chief Building Official has confirmed that such system is operational.
 - c) Such system shall remain operational in perpetuity as a responsibility of the homeowner and this condition shall not be released from title unless and until the CITY Solicitor is notified by the CITY'S Fire Chief that adequate protection is otherwise provided and the maintenance of the system is no longer mandatory.
14. That the property owner shall receive final approval of the Environmental Impact Study - 192 Woolwich Street Lot Severance, prepared by Natural Resource Solutions Inc. (September 21, 2022) and the Tree Preservation and Enhancement Plan - 192 Woolwich Street Lot Severance, prepared by Natural Resource Solutions Inc. (September 21, 2022), from the City's Director of Planning, the Grand River Conservation Authority and the Regional Municipality of Waterloo. The final Tree Preservation and Enhancement Plan shall also identify any hazard trees which are located within the road widening area to the satisfaction of the City's Director of Parks and Cemeteries.

15. That the property owner enter into a Conservation Easement Agreement together with a Management Plan, 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 and registered on title of the lands to be severed. The Management Plan shall include, but is not limited to, the Mitigation Measures recommended in the approved Environmental Impact Study - 192 Woolwich Street Lot Severance, prepared by Natural Resource Solutions Inc. (September 21, 2022) and the Tree Preservation and Enhancement Plan - 192 Woolwich Street Lot Severance, prepared by Natural Resource Solutions Inc. (September 21, 2022), to the satisfaction of the City's Director of Planning and the City Solicitor.
16. 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, and registered on title of the severed lands, which shall include the following:
- a) That prior to any grading, servicing, or the application for 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 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
 - (vii) building elevation drawings.
 - (viii) If necessary, the plan shall include required mitigation and or compensation measures.
 - (ix) That the approved elevation drawings shall be implemented as approved or be substantively similar to the approved elevations as part of issuance of the building permit.

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.

- b) That prior to application for or issuance of a building permit, the owner shall submit a Planting Plan for the naturalization of the wetland and dripline buffers and to revegetate slopes, to the satisfaction and approval of the City's Director of Planning.

The owner agrees to implement the approved Planting Plan to the satisfaction of the City's Director of Planning, within 6 months of occupancy, or as soon as weather conditions permit.

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

18. That prior to final approval, an agreement between the owner/applicant and the City of Kitchener, to the satisfaction of the Region of Waterloo, must be registered on title for the severed lands that includes the requirement for the following noise mitigation and warning clauses in all agreements of Offers of Purchase and Sale, deeds, and lease/rental agreements:

- a) The dwelling unit must be installed with an air-ducted heating and ventilation system suitably sized and designed with the provision of adding central air conditioning.
- b) The following noise warning clauses (Type C) will be included in all offers of purchase and sale, deeds and lease/rental agreements:

“Purchasers / tenants are advised that this dwelling 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 Region of Waterloo and the Ministry of the Environment Conservation and Parks (MECP).”

- c) That the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the building plans and upon completion of construction, the City of Kitchener's Building Inspector will certify that the dwelling unit has been constructed accordingly.

19. That prior to final approval, an agreement between the owner/applicant and the City of Kitchener, to the satisfaction of the Region of Waterloo, must be registered on title for the retained lands that includes the requirement for the following noise mitigation and warning clauses in all agreements of Offers of Purchase and Sale, deeds, and lease/rental agreements:

- a) The following noise warning clause (Type A) will be included in all offers of purchase and sale, deeds and lease/rental agreements:

"Purchasers/tenants are advised that sound levels due to increasing road traffic on Woolwich Street may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment."

REPORT HIGHLIGHTS:

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

BACKGROUND:

The subject property is located at 192 Woolwich Street and has been developed with a single detached dwelling. The lot is approximately 0.8 ha in area and is bound by Woolwich Street to the

west, existing residential properties to the north and south, and a steep slope to the east leading to a portion of the Melitzer Creek Provincially Significant Wetland (PSW) complex.



Image 1 – 192 Woolwich Street



Image 2 – Photo of 192 Woolwich Street (site visit conducted on September 30, 2022)

PROPOSED LANDS FOR
3.96 (13.0) ROAD WIDENING
AREA = 165 sq.m.

PROPOSED LANDS
TO BE SEVERED
AREA = 4586 sq.m.

PROPOSED LANDS
TO BE RETAINED
AREA = 3595 sq.m.

GERMAN COMPANY TRACT

EXISTING 2 STOREY
BRICK DWELLING
No. 192

POOL (CABANA
(proposed))

POOL

WETLAND (ORCA)

POND

REGISTERED PLAN 58R-19112

LOT 1

LOT 2

Image 3 – Proposed Severance Sketch

The property is zoned 'Agricultural Zone (A-1)' in Zoning By-law 85-1 and 'Low Rise Residential Two Zone (RES-2)' in Zoning By-law 2019-051. The proposed lot size and setbacks will comply with the Council approved/under appeal RES-2 Zone; however, variances are required to the A-1 zone as further described in the Minor Variance section below.

The subject lands contain an existing wetland located on the lands to be severed near Woolwich Street, and the property backs onto the Melitzer Creek Wetland Complex. Policies of the Official Plan acknowledge that the precise location and boundaries of natural heritage features may be determined and implemented through site specific Environmental Impact Studies (EIS). Policy 7.C.2.55 permits lot creation in proximity to natural heritage features, where the features and their functions have been evaluated through an EIS, and where the EIS has been completed to the satisfaction of the City, Region of Waterloo (Region) and Grand River Conservation Authority (GRCA), and it has been determined that there will be no negative impacts to the natural heritage feature or their ecological functions. The owner has submitted an Environmental Impact Study (prepared by Natural Resource Solutions Inc, Sept 21, 2022) in support of the proposed Consent Application. This study has been reviewed by the GRCA, the Region of Waterloo and the City's Environmental Planner. The review authorities agree with the recommendations of the EIS including the recommended buffer to the natural features. They have determined that the new lot will allow for an appropriately sized building envelope and the driveway and service connections can be located outside of the wetland buffer. The recommendations of the EIS will be implemented through the conditions of approval and include the requirements for a Conservation Easement in favour of the City and Management Plan, and additionally, a permit is required by the GRCA prior to any grading or construction activities commencing.

Municipal services currently exist within the Woolwich Street right-of-way, which is owned and maintained by the City of Waterloo. The existing dwelling on the lands to be retained is connected to municipal water however is on a septic system. City and Regional staff are satisfied that policies permit the existing dwelling to remain connected to the existing septic system. The applicant has provided additional information to staff confirm that the location of the septic system does not conflict with the proposed lot line – it is located in the rear yard towards the northern side yard.

The lands to be severed will be connected to municipal water and sanitary (via a private forcemain within the right-of-way). While the developable area between the wetland/buffer and the proposed property line is fairly narrow, the proposed lot width was determined based on the amount of width needed to accommodate for servicing and the driveway outside of the wetland and buffer. The applicant's engineer has provided confirmation that the services can be provided within the developable area. City Engineering staff has identified no concerns with the consent or servicing solution and have provided conditions of approval. Staff note that there is an existing hydro pole in front of the lands to be severed. The final design of the future driveway will need to consider the hydro pole.

REPORT:

Planning Comments Minor Variance Applications

The applicant is requesting minor variances to the Agricultural Zone of By-law 85-1. Council has approved new zoning By-law 2019-051 which rezones the subject lands to Residential Two Zone (RES-2), however the by-law is under appeal. The proposed lot sizes and setbacks comply with the regulations of the new Council approved/under appeal zoning category. Until such time as the appeals are resolved, both by-laws apply and variances to the old by-law are required to facilitate the consent. The use of single detached dwelling is permitted by both by-laws.

A2022-127 (lands to be retained):

The applicant is requesting relief from Section 34.3.2 of Zoning By-law 85-1, to permit:

- a) a minimum lot width of 25.97 metres instead of 60 metres;
- b) a minimum lot area of 3595 metres square instead of 0.4 hectares (4000 metres squared); and
- c) a minimum side yard setback of 2.0 metres rather than 7.5 metres for an existing single detached dwelling.

A2022-128 (lands to be severed):

The applicant is requesting relief from Section 34.3.2 of Zoning By-law 85-1, to permit:

- a) a minimum lot width of 33.47 metres instead of 60 metres; and
- b) a minimum side yard setback of 2.0 metres rather than 7.5 metres

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 lands are designated Low Rise Residential and Natural Heritage Conservation in the City's Official Plan. As discussed, an EIS has been provided which may be relied upon to delineate the boundary between the designations. The intent of the Natural Heritage Conservation designation is to protect the natural features. The EIS demonstrates that the proposed lot sizes provide for lot areas and lot widths which accommodate the existing and proposed single detached dwellings, while protecting the natural features. The wetland and buffers will be protected with the Conservation Easement.

The developable area on the lands to be severed and retained is considered to be designated Low Rise Residential. The intent of the Low Rise Residential designation is to permit a full range of housing types at a low intensity of use. Policies require that when reviewing minor variances consideration should be had to whether the variances will result in a new building that is compatible with existing built form and community character. The surrounding neighbourhood consists of primarily single detached dwellings, many on estate sized lots. The proposed lot sizes are compatible with lot sizes in the surrounding area and the proposed side yard setback of 2.0 metres will result in compatible building placement and is consistent with setback requirements of the RES-2 zoning. Staff is of the opinion that the intent of the Official Plan is maintained.

General Intent of the Zoning By-law**1. Reduction to Minimum Lot Width and Minimum Lot Area:**

The applicant has requested variances to permit a reduced lot width and lot area for the lands to be retained and for a reduction to minimum lot width for the lands to be severed. The general intent of the zoning by-law regulations for the minimum lot size and minimum lot width is to provide for a lot that is appropriately sized to accommodate the buildings and site functions (driveway, servicing etc) in the context of the lots in the surrounding area. The minimum lot area of 0.4 ha and lot width of 60.0 m in the A-1 zone recognizes lots in rural areas would need to accommodate for development on private services (typically about 0.4 ha is considered the minimum lot area necessary to accommodate for a septic system and a private well) and would be situated in a rural context. Historically, the Bridgeport North community had a much more rural context than today, and while limited services were available in some areas, there were severe capacity constraints and most lands were privately serviced, requiring large lot sizes. Today, the subject lands are not located in a rural/agricultural context, but rather in the urban area, which is recognized by the RES-2 zoning. Further, municipal services are generally available and as discussed, the proposed lot to be severed will be connected to municipal

water and sanitary services. The existing house on the lands to be retained is connected to municipal water but was built on a septic system (which is permitted and can remain). Based on the foregoing, staff is of the opinion that the general intent of the by-law is maintained.

2. Reduction to Side Yard Setback:

The applicant is requesting minor variances to permit a side yard setback of 2.0 metres rather than 7.5 metres for both the lands to be retained and lands to be severed. The general intent of the zoning by-law in regulating side yard setbacks is to provide for an appropriate separation between buildings on adjacent lands in the context of the property and lots in the surrounding area. The 7.5 metres side yard setback in the A-1 zone implemented setbacks that were appropriate in an agricultural/rural context and on very large lots. The subject lands are no longer located in a rural context and the Council approved/under appeal RES-2 zoning applied to the lands has determined that a 2.0 metre side yard setback is appropriate for single detached dwellings in an urban context moving forward. Further, staff note the 2.0 metre setback is consistent with the building envelope evaluated through the EIS. Based on the foregoing, staff is of the opinion that the general intent of the by-law is maintained.

Are the Effects of the Variances Minor?

Staff is of the opinion that the effects of the variances are minor. At such time as the appeals are resolved and the RES-2 zone is in force and effect, the requested variances would not be needed to permit consideration of the subject consent application, or construction of a dwelling. However, as the timing of the appeals is uncertain the applicant has elected to proceed with variances in order to allow the consent to be considered.

Are the Variances Desirable for the Appropriate Development or Use of the Land, Building and/or Structure?

Staff is of the opinion that the variances are desirable for the appropriate development and use of the lands, building and/or structure. The proposed variances support the creation of a new lot for a future single detached dwelling. The proposed lot size exceeds the minimum requirements of the Council approved/under appeal RES-2 zone, and the setbacks of the existing dwelling on the lands to be retained and future dwelling will comply once the new zoning is in full force and effect.

Planning Comments Consent Application B2022-056:

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 a lot for a future dwelling and is compatible with the surrounding community and will make use of the existing infrastructure and roads. Planning staff is satisfied that natural features have been evaluated and protected in accordance with policies

contained in section 2.1. Provincial policies permit partial services for existing development in infilling situations. 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 located within the City's delineated built-up area. The proposed development represents intensification and will contribute towards achieving the City's intensification density targets. The severance application will help make efficient use of existing infrastructure, parks, roads, trails and transit. Planning staff is of the opinion that the development proposal conforms to the Growth Plan.

Regional Official Plan (ROP):

Urban Area policies of the ROP identify that the focus of the Region's future growth will be within the Urban Area. The subject lands are designated Built-Up Area in the ROP. 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. The Region has indicated that they have no objections to the proposed consent and provide additional ROP commentary with respect to natural heritage, servicing and noise in the attached Region of Waterloo comments. Planning staff are of the opinion that the severance application conforms to the Regional Official Plan.

City's Official Plan (2014)

The subject property is identified as 'Community Area' and 'Green Area' on Map 2 – Urban Structure and is designated 'Low Rise Residential' and 'Natural Heritage Conservation' 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 Low Rise Residential land use designation permits a full range of low density housing types which may include single detached dwellings. The Low Rise Residential land use designation encourages mixing and integrating different forms of housing to achieve and maintain a low-rise built form and identifies a maximum net residential density of 30 units per hectare.

The Natural Heritage Conservation land use designation is applied to lands containing natural heritage features which require conservation. While the land use designation is shown on Map 3, policies of the Official Plan acknowledge that the precise location and boundaries of natural heritage features may be determined and implemented through site specific Environmental Impact Studies (EIS). Policy 7.C.2.55 of the Official permits lot creation in proximity to natural heritage features, where the features and their functions have been evaluated through an EIS, and where the EIS has been completed to the satisfaction of the City, Region of Waterloo (Region) and Grand River Conservation Authority (GRCA), and it has been determined that there will be no negative impacts to the natural heritage feature or their ecological functions.

The owner has submitted an Environmental Impact Study (prepared by Natural Resource Solutions Inc, Sept 21, 2022) in support of the proposed Consent Application. This study has been reviewed by the GRCA, the Region of Waterloo and the City's Environmental Planner. The review authorities agree with the recommendations of the EIS including the recommended buffer to the natural features. They confirm that the new lot will allow for an appropriately sized building envelope and the driveway and service connections can be located outside of the wetland and buffer. The recommendations of the EIS will be implemented through the conditions of approval and include the requirements for a Conservation Easement in favour of the City and a Tree Management Plan.

Staff is of the opinion that the proposed severance is in accordance with policies of the Official Plan. Lot creation is permitted, and the proposal complies with the Low Rise Residential and Natural Heritage Conservation land use designations and various environmental policies.

Zoning By-law 85-1/2019-051

The property is zoned 'Agricultural Zone (A-1)' in Zoning By-law 85-1 and 'Low Rise Residential Two Zone (RES-2)' in Zoning By-law 2019-051. The proposed lot size and setbacks will comply with the Council approved/under appeal RES-2 Zone; however, variances are required to the A-1 zone. Discussions is provided in the minor variance section of this report, and in summary staff are supportive of the requested variances.

Planning staff is of the opinion that the size, dimensions and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding neighbourhood which is developed with low rise residential uses including single detached dwellings on large lots. The lands front onto a public street and full services are available for the lands to be severed, and partial services are suitable for the lands to be retained.

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. The future use of both the severed and retained parcels are in conformity with the City's Official Plan and Zoning By-law. Planning staff is of the opinion that the size, dimension and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding community. 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.

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. The future use of both the severed and retained parcels are in conformity with the City's Official Plan and Zoning By-law. Planning staff is of the opinion that the size, dimension and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding community, that natural resources are conserved and that there are adequate services for the lands. 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:

Staff have reviewed the Environmental Impact Study provided in support of a Lot Severance (Application B2022-056) at 192 Woolwich Street dated August 2022 prepared by Natural Resource Solutions Inc. and have no significant concerns.

All development activity will occur outside of the 30 metre buffer afforded to the Provincially Significant Wetland (PSW). The existing driveway and proposed retaining wall will encroach into the 15 metre buffer surrounding the on-site wetland. However, impacts have been avoided to the greatest extent possible, and the long-term form and function of the surrounding natural area will be maintained.

To ensure mitigation and protections measures as outlined in the EIS are executed, it is recommended that following conditions be applied:

1. The applicant receive final approval of the EIS;
2. The applicant enter into a Conservation Easement with Management Plan in favor of the City;
3. The standard subdivision conditions related to the Tree Management Policy are applied; and
4. The applicant develop and implement a planting plan to naturalize the wetland and dripline buffers and revegetate slopes.

Heritage Planning Comments:

No Concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit for the new residential buildings are 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 application 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 addresses such items as:

Spatial separation of existing buildings' wall face to the satisfaction of the Chief Building Official. Closing in of openings may be required, pending spatial separation calculation results.

- 2) A building permit shall be obtained for any remedial work/ upgrades that may be required by the building code assessment.

Engineering Division Comments:

- Severance of any blocks within the subject lands will require separate, individual service connections for sanitary, storm, and water, in accordance with City policies.
- The owner is required to make satisfactory financial arrangements with the Engineering Division for the installation of new service connections that may be required to service this property, all prior to severance approval. Our records indicate storm and water municipal services are currently available to service this property. Any further enquiries in this regard should be directed to Christine Goulet (christine.goulet@kitchener.ca).
- The owner shall implement a suitable design solution for a sanitary outlet to the satisfaction of the Engineering Division and the City of Waterloo. Details of this design solution may include:
 - an encroachment agreement such that the property owner would be responsible for repairs of the entire private forcemain in the municipal right of way,
 - If COK staff need to respond to issues with the forcemain or created because of the forcemain (i.e.: odour complaints, maintenance, etc.), we will bill the property owners,
 - Any effluent that might flow into COK systems (from Waterloo) are properly accounted for and billed as part of a cross-border agreement,
 - The existing forcemain is too large and will be reduced in size,
- Any new driveways are to be built to City of Kitchener/City of Waterloo standards. All works are at the owner's expense and all work needs to be completed prior to occupancy of the building.
- A servicing plan showing outlets to the municipal servicing system will be required to the satisfaction of the Engineering Division prior to severance approval.
- A Development Asset Drawing (digital AutoCAD) is required for the new site infrastructure with corresponding layer names and asset information to the satisfaction of the Engineering Division prior to severance approval.
- A Phase 1 and (possibly) Phase 2 Environmental Site Assessment for the portion of road being dedicated to the City. Required prior to severance approval.

Parks/Operations Division Comments:

The City of Kitchener Park Dedication Bylaw and Park Dedication Policy have recently been updated and new parkland dedication criteria, rates and land values have been approved by Council on August 22, 2022. The Bylaw is currently under appeal. These comments relate to a Consent application that will be considered under the new Park Dedication Policy and Bylaw.

Cash-in-lieu of park land dedication will be required on the severed parcel as 1 new development lot will be created. The cash-in-lieu dedication required is \$11,862.00. Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of 33.47m at a land value of \$36,080.00 per frontage meter. The per unit cap of \$11,862 applies.

Calculation: $33.47\text{m} \times \$36,080 \times 0.05 = \$60,379.88$ **Apply cap rate = \$11,862**

Currently, there are no city owned street trees within the right of way, however with the road widening anticipated through this application, numerous trees will become City owned and will be impacted as part of the proposed driveway and retaining wall construction for the severed lot. Ultimately, these trees will be conveyed to the City of Waterloo at such time as the road widening is transferred.

Parks staff originally requested that the standard street tree conditions be included, however subject to further discussion, staff instead included conditions requiring that any hazard trees identified in the required Tree Preservation and Enhancement Plan, which are located within the lands to be dedicated shall be removed by the property owner prior to dedication.

Transportation Planning Comments:

It is noted in the City of Kitchener's Official Plan that a road widening is required along Woolwich Street between Shirk Place to Kitchener city limits. The road widening will apply to the severed portion only and have a conveyance of approximately 4m. A reference plan will be required to obtain a precise road widening conveyance and any costs associated with the reference plan will be the responsibility of the applicant.

Due to the road widening requirement, the Engineering Department will require a Phase 1 and potentially a Phase 2 Environmental Site Assessment (ESA) for the severed portion of land. Any costs associated with the ESA, will be the responsibility of the applicant.

Grand River Conservation Authority Comments:

See Attachment A.

Region of Waterloo Comments:

See Attachment B.

City of Waterloo Comments:**Zoning By-law Amendment:**

The subject property is entirely within the City of Kitchener and subject to Zoning By-law 85-1. As such, Waterloo staff will defer to the City of Kitchener Planning Division to review and comment on the minor variance applications.

Road Widening:

The plan submitted with the consent application shows a road widening of 3.96 metres along the frontage of the severed lot and retained lot. The property fronts onto Woolwich Street which is located in the City of Waterloo. The proposed road widening complies with Section 5.4.7 of the City of Waterloo Official Plan which requires a designated road allowance of 20 metres for this section of Woolwich Street. As such, a condition should be applied to the consent application requiring that a road widening along the entire frontage of the severed & retained lots be transferred to the City of Kitchener.

Comments from the Transportation and Engineering teams were provided in the pre-submission consultation, particularly related to municipal services and permits for working within the Woolwich St right-of-way. I understand the City of Kitchener Staff have also been involved with these discussions so I have not included specific comments here but defer to Kitchener Staff to address these items.

STRATEGIC PLAN ALIGNMENT:

This report supports the delivery of core services.

FINANCIAL IMPLICATIONS:

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

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

COMMUNITY ENGAGEMENT:

INFORM – This report has been posted to the City's website with the agenda in advance of the Committee of Adjustment meeting. A notice sign was placed on the property advising that a Committee of Adjustment application has been received. The sign advises interested parties to find

additional information on the City's website or by emailing the Planning Division. A notice of the application was mailed to all property owners within 30 metres of the subject property.

PREVIOUS REPORTS/AUTHORITIES:

- Planning Act
- Provincial Policy Statement (PPS 2014)
- A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020
- Regional Official Plan (ROP)
- Official Plan (2014)
- Zoning By-laws 85-1 and 2019-051

ATTACHMENTS:

- Attachment A – GRCA Comments
- Attachment B – Region of Waterloo Comments