

# Staff Report



Development Services Department

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**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** June 20, 2023

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

**PREPARED BY:** Brian Bateman, Senior Planner, 519-741-2200 ext. 7869

**WARD(S) INVOLVED:** Ward 3

**DATE OF REPORT:** June 9, 2023

**REPORT NO.:** DSD-2023-271

**SUBJECT:** Consent Application B2023-021 – 46 Second Avenue

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## RECOMMENDATION:

That Consent Application B2023-021 for 46 Second Avenue requesting consent to sever a parcel of land having a lot width of 10 metres along Second Avenue, a lot depth of 40.2 metres and a lot area of 404.7 square metres for a new 2 storey duplex dwelling, **BE APPROVED** subject to the following conditions:

1. That the Owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
2. That the Owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.
3. That the owner provides a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full size paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
4. That the Owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
5. That the Owner submit a Development Asset Drawing (digital AutoCAD) for the site (servicing, SWM etc.) with corresponding layer names and asset information to the satisfaction of the City's Director of Engineering Services, prior to deed endorsement.
6. That the Owner makes financial arrangements for the installation of any new service connections to the severed and/or retained lands to the satisfaction of the City's Director of Engineering Services.

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

- 7. 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.**
- 8. That the Owner provides confirmation that the basement elevation can be drained by gravity to the street sewers to the satisfaction of the City's Director of Engineering Services. If this is not the case, then the owner will need to pump the sewage via a pump and forcemain to the property line and have a gravity sewer from the property line to the street to the satisfaction of the City's Director of Engineering Services.**
- 9. That the owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication of \$11,862.00.**
- 10. That the Owner obtains Demolition Control Approval, in accordance with the City's Demolition Control By-law, to the satisfaction of the City's Director of Planning.**
- 11. That the Owner obtains a Demolition Permit for the existing dwelling proposed to be demolished, to the satisfaction of the Chief Building Official.**
- 12. 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 prior to any grading, servicing or the application or issuance of a building permit, the owner shall submit a plan, prepared by a qualified consultant, to the satisfaction and approval of the City's Supervisor of Site Plans 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.**
  - b) Any alteration or improvement to the lands including grading, servicing, tree removal and the application or issuance of any building permits shall be in compliance with the approved plan. Any changes or revisions to the plan require the approval of the City's Supervisor of Site Plans.**
- 13. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.**
- 14. That the Owner enter into a registered agreement with the City of Kitchener on both the Severed and Retained lots:**

- a) The Owner agrees that the dwelling will be fitted with a forced air-ducted heating system suitably sized and designed with provision for the installation of central air conditioning in future at the occupant's discretion.
- b) The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:

*“The 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 Environment, Conservation and Parks (MECP).”*

*“Purchaser/tenants are advised that sound levels due to increasing transportation noise on Conestoga Parkway (Highway 7/8) may, on occasions, interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MOECP).”*

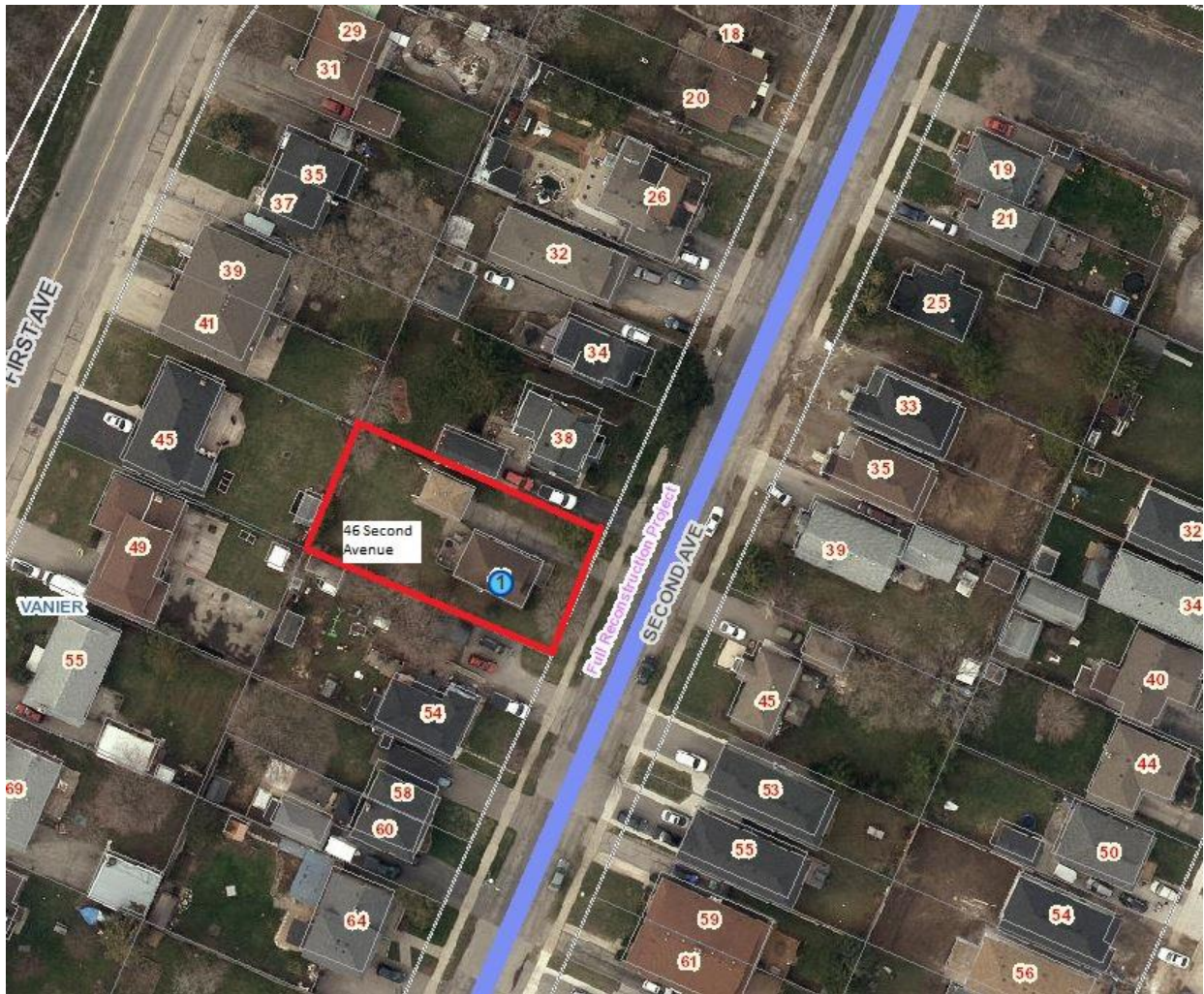
- c) That as an alternative to a) and b) above, the owner/applicant agrees to complete a road traffic noise study to the satisfaction of the City of Kitchener, in consultation with the Region of Waterloo, and to amend this agreement to implement the recommendations of the accepted noise study.

#### **REPORT HIGHLIGHTS:**

- The purpose of this report is to review an application for consent to create 2 new lots for a new duplex dwelling on each of the severed and retained parcels of land.
- There are no financial implications.
- Community engagement included a notice sign being placed on the property advising that a Committee of Adjustment application has been received, notice of the application was mailed to all property owners within 30 metres of the subject property and this report was posted to the City's website with the agenda in advance of the Committee of Adjustment meeting.
- This report supports the delivery of core services.

#### **BACKGROUND:**

The subject property is an interior lot located on the west side of Second Avenue between Kingsway Drive and Connaught Street and currently contains a single detached dwelling.



**Figure 1: Location of Subject Property**

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

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

The purpose of the application is to create a new lot to construct a new detached duplex dwelling on the severed lands. A duplex dwelling would also be built on the retained lands. The existing detached dwelling is proposed to be demolished.



**Figure 2: View of Existing Detached Dwelling**

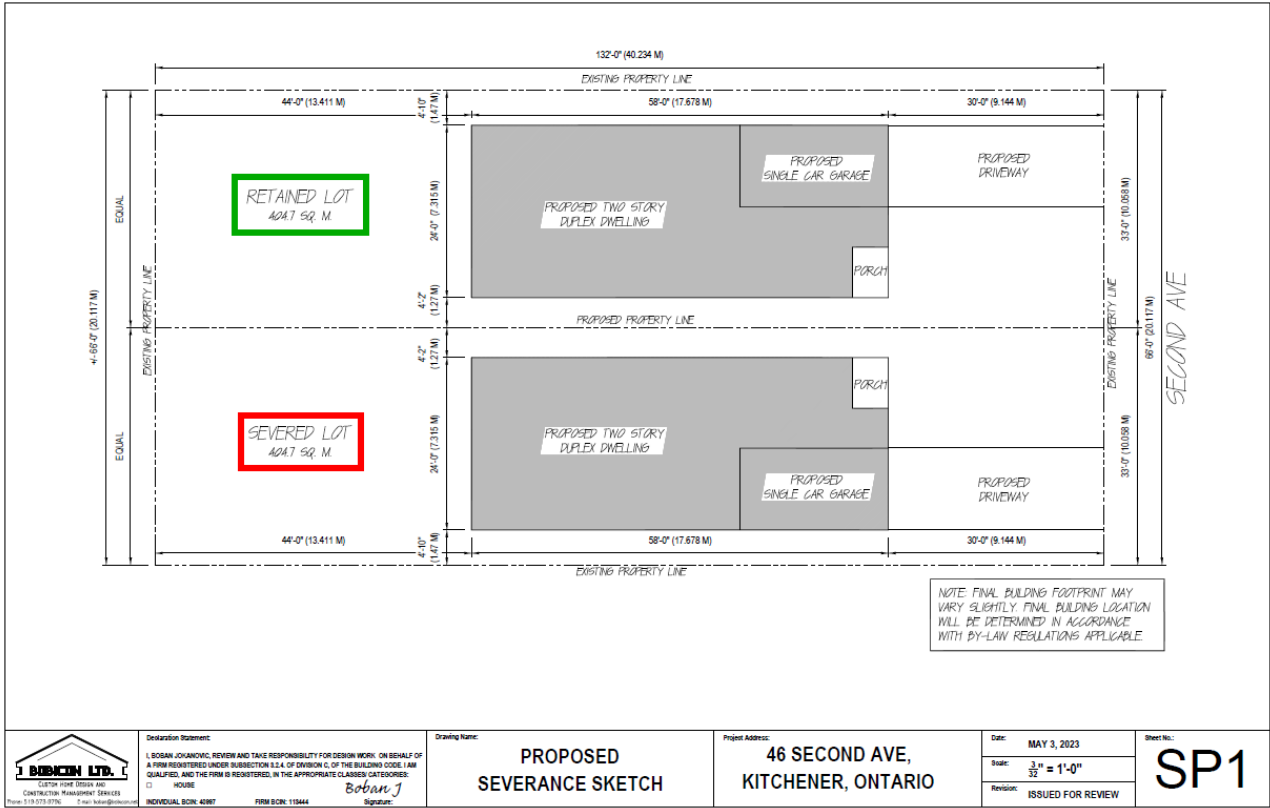


Figure 3: Severance Sketch

**REPORT:**

**Planning Comments:**

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

Provincial Policy Statement (PPS 2020)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. Section 1.4.3(b) of the PPS promotes all types of residential intensification, and sets out a policy framework for sustainable healthy, liveable and safe communities. The PPS promotes efficient development and land use patterns, as well as accommodating an appropriate mix of affordable and market-based residential dwelling types with other land uses, while supporting the environment, public health and safety. Provincial policies promote the integration of land use planning, growth management, transit-supportive development, intensification, and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs.

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

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

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

viability and active transportation. The subject lands are in close proximity to transit and the subject lands are in closer proximity to trails and parks.

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

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

Regional Official Plan (ROP):

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

City's Official Plan (2014)

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

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

- “17.E.20.5 Applications for consent to create new lots will only be granted where:
- a) the lots comply with the policies of this Plan, any Community Plan and/or Secondary Plan, and that the lots are in conformity with the Zoning By-law, or a minor variance has been granted to correct any deficiencies;
  - b) the lots reflect the general scale and character of the established development pattern of surrounding lands by taking into consideration lot frontages, areas, and configurations;
  - c) all of the criteria for plan of subdivision are given due consideration;
  - d) the lot will have frontage on a public street;
  - e) municipal water services are available;
  - f) municipal sanitary services are available except in accordance with Policy 14.C.1.19;
  - g) a Plan of Subdivision or Condominium has been deemed not to be necessary for proper and orderly development; and,

- h) the lot(s) will not restrict the ultimate development of adjacent properties.”

The proposed lot widths and lot areas of the proposed severed and retained lots will meet the minimum 'RES-4' zone lot width and lot area requirements and minor variances are not required. Planning staff is of the opinion that the size, dimension and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding neighbourhood which is developed with single detached, semi detached and multiple dwellings with lots sizes that vary in width, depth, and area. The lands front onto a public street and full services are available. There are no natural heritage features that would be impacted by the proposed consent application. Planning staff is of the opinion that the proposed severance conforms with the City of Kitchener Official Plan.

#### Zoning By-law 2019-051

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

As per Zoning By-law 2019-051, the maximum permitted width of a driveway is 40 percent of the lot width or 4 metres wide for a 10-metre-wide lot. It is noted that the applicant is proposing to develop each of the new lots with a duplex dwelling. Tandem parking is permitted for a duplex dwelling. It should also be noted that given the maximum driveway width of 4 metres, side by side parking for the duplex dwelling, or a driveway having a width of 5.2 metres, is not permitted.

#### **Planning Conclusions/Comments:**

With respect to the criteria for the subdivision of land listed in Section 51(24) of the Planning Act, R.S.O. 1990, c.P.13, staff is satisfied that the creation of the severed lots are desirable and appropriate.

#### **Environmental Planning Comments:**

The following condition should be applied:

1. 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 prior to any grading, servicing or the application or issuance of a building permit, the owner shall submit a plan, prepared by a qualified consultant, to the satisfaction and approval of the City's Supervisor of Site Plans 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.
- b) Any alteration or improvement to the lands including grading, servicing, tree removal and the application or issuance of any building permits shall be in compliance with the approved plan. Any changes or revisions to the plan require the approval of the City's Supervisor of Site Plans.

**Heritage Planning Comments:**

No heritage concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed consent. Region of Waterloo and Area Municipalities' Design Guidelines and Supplemental Specifications for Municipal Services (DGSSMS) allows only one service per lot. Separate building permit(s) will be required for the demolition of the existing building, as well as construction of the new residential buildings.

**Engineering Division Comments:**

- Severance of any blocks within the subject lands will require separate, individual service connections for sanitary, storm, and water, in accordance with City policies.
- The owner is required to make satisfactory financial arrangements with the Engineering Division for the installation of new service connections that may be required to service this property, all prior to severance approval. Our records indicate sanitary, storm and water municipal services are currently available to service this property. Any further enquiries in this regard should be directed to Katie Wood ([katie.wood@kitchener.ca](mailto:katie.wood@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 **\$11,862.00**. Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of 10.06m at a land value of \$36,080 per frontage meter with a per unit cap of \$11,862.00.

**Transportation Planning Comments:**

Transportation Services have no concerns with the proposed application.

**Region of Waterloo Comments:**

The purpose of the application is to sever the existing lot into two parcels for development of a detached duplex dwelling on each of the two lots.

### Environmental Noise Study

The location of the subject lands is in close proximity to Conestoga Parkway (HWY 7/8 & on-off ramp (within 100m). Despite the existing noise barriers along the highway, the proposed dwellings are anticipated to be exposed to traffic noise on Highway 7/8. It is anticipated that due to the close proximity of the highway and the exposure to the highway ramps, the proposed dwellings will require noise mitigation such as, but not limited to, the installation of air-conditioning and other special building components.

The following conditions should be secured through a registered agreement with the City of Kitchener for all dwelling units on both retained and severed lots:

- The dwelling will be fitted with a forced air-ducted heating system suitably sized and designed with provision for the installation of central air conditioning in future at the occupant's discretion.
- The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:

*"The 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 Environment, Conservation and Parks (MECP)."*

*"Purchaser/tenants are advised that sound levels due to increasing transportation noise on Conestoga Parkway (Highway 7/8) may, on occasions, interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MOECP)."*

- Alternatively, the applicant may choose to undertake a detailed environmental noise study to assess the environmental noise impacts on the proposed residential dwellings on retained and severed lots. The recommendations of the detailed noise study will be implemented through a registered agreement with the City of Kitchener.

### Airport Zoning Regulations (Advisory Comments)

Although there are no specific concerns for the proposed development from an airport perspective, the owners are advised that the subject lands are within the Airport Zoning Regulated area (AZR), specifically located under the airport take-off/approach runway flight path and are subject to all provisions of the AZR. Residents may be subject to noise and presence from flying aircraft.

### Source Water Protection

For information, the property is designated Wellhead Protection Sensitivity Area 8 on Map 6a of the Regional Official Plan (ROP). The purpose of this designation and corresponding policies in Chapter 8 of the ROP, is to protect the Region's long term municipal groundwater supplies. No action is required by the applicant.

### Regional Fee

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

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

1. The owner/applicant is required to submit the Regional consent review fee of \$350.00 prior to final approval of the consent.
2. The owner/applicant enter into a registered agreement with the City of Kitchener to provide the following: That for both the severed and retained lands:
  - a) The dwelling(s) will be fitted with a forced air-ducted heating system suitably sized and designed with provision for the installation of central air conditioning in future at the occupant's discretion.
  - b) The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:

*"The 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 Environment, Conservation and Parks (MECP)."*

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  - c) That as an alternative to a) and b) above, the owner/applicant agrees to complete a road traffic noise study to the satisfaction of the City of Kitchener, in consultation with the Region of Waterloo, and to amend this agreement to implement the recommendations of the accepted noise study.

#### **GRCA Comments**

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:**

- *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)*
- *ROPA 6*
- *Zoning By-law 2019-051*