

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: August 16, 2023

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

PREPARED BY: Tim Seyler, Senior Planner, 519-741-2200 ext. 7860

WARD(S) INVOLVED: Ward 5

DATE OF REPORT: August 3, 2023

REPORT NO.: DSD-2023-353

SUBJECT: Minor Variance Applications A2023-102 and A2023-103
Consent Application B2023-032 and B2023-033
485 and 495 Huron Road

RECOMMENDATION:

Minor Variance Application A2023-102 – 485 Huron Road

A. That Minor Variance Application A2023-102 for 485 Huron Road requesting relief from Section 9.3, Table 9-2 of Zoning By-law 2019-051, to permit an interior side yard setback of 1.5 metres instead of the required 3.0 metres to facilitate the development of a commercial building in accordance with Site Plan Application SP23/005/H/TS, BE APPROVED.

Minor Variance Application A2023-103 – 495 Huron Road

B. That Minor Variance Application A2023-103 for 495 Huron Road requesting relief from Section 8.3, Table 8.2, of Zoning By-Law 2019-051 for the following:

- i) To permit the maximum number of storeys in the base of a mid-rise building or tall building of 10 storeys instead of the maximum permitted 6 storeys;
- ii) To permit a minimum street line step back for mid-rise building and tall building of 0 metres instead of the minimum required 3 metres;
- iii) To permit a ground floor street line façade width as a percent of the width of the abutting street line of 20% instead of the minimum required 50%; and
- iv) To permit the minimum percent of street line façade openings of 0% instead of the minimum required 50%;

to facilitate the development of a multiple dwelling residential building in accordance with Site Plan Application SP22/128/H/TS, BE APPROVED.

Consent Application B2023-032 – 485 Huron Road

C. That Consent Application B2023-032 for 485 Huron Road requesting consent to sever a parcel of land having a lot width of 56.2 metres, a lot depth of 149.72 metres and a lot area of 0.84 hectares, BE APPROVED subject to the following conditions:

- 1. That Minor Variance Application A2023-102 receive final approval.**
- 2. 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.**
- 3. 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.**
- 4. 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.**
- 5. That the Owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.**
- 6. 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.**
- 7. 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.**
- 8. 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.**
- 9. 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.**
- 10. The owner/applicant is required to submit the Regional consent review fee of \$350.00 prior to final approval of the consent.**

11. The owner/applicant must submit a valid Notice of Source Protection Plan Compliance (Section 59 Notice) as per the Clean Water Act, 2006.
12. The owner/applicant must enter into a registered agreement with the City of Kitchener to provide that all outdoor mechanical equipment such as rooftop chillers or air makeup units for the proposed commercial buildings, i.e., Commercial Units and Activa Design Studio, will be designed to have a noise impact of less than 35dBA at any residential unit(s) on the proposed residential building municipally known as 495 Huron Road.

The agreement must also include a provision to provide a certificate of compliance from a Professional Engineer qualified in acoustics, licensed in the Province of Ontario, certifying that the above mechanical equipment meets the required noise level objective.

13. The owner/applicant must submit a salt management plan for review and acceptance by the Regional Commissioner of Planning, Development and Legislative Services.

Consent Application B2023-033 – 495 Huron Road

- D. That Consent Application B2023-033 for 495 Huron Road requesting consent to sever a parcel of land having a lot width of 79.3 metres, a lot depth of 149.72 metres and a lot area of 1.49 hectares, and requesting consent to create an access easement having a width of 7.3 metres, a depth of 149.72 metres and area of 0.1 hectares, BE APPROVED subject to the following conditions:
 1. That Minor Variance Application A2023-103 receive final approval.
 2. 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.
 3. That the Transfer Easement document(s) required to create the Easement(s) being approved herein shall include the following, and shall be approved by the City Solicitor in consultation with the City's Supervisor, Development Applications:
 - a) a clear and specific description of the purpose of the Easement(s) and of the rights and privileges being granted therein (including detailed terms and/or conditions of any required maintenance, liability and/or cost sharing provisions related thereto); and
 - b) a clause/statement/wording confirming that the Easement(s) being granted shall be maintained and registered on title in perpetuity and shall not be amended, released or otherwise dealt with without the express written consent of the City.

4. That a satisfactory Solicitor's Undertaking to register the approved Transfer Easement(s) and to immediately thereafter provide copies thereof to the City Solicitor be provided to the City Solicitor.
5. 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.
6. 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.
7. That the Owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
8. 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.
9. 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.
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 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. The owner/applicant is required to submit the Regional consent review fee of \$350.00 prior to final approval of the consent.
13. The owner/applicant must submit a valid Notice of Source Protection Plan Compliance (Section 59 Notice) as per the Clean Water Act, 2006.
14. The owner/applicant must enter into a registered agreement with the City of Kitchener to provide the following:
 - a) The developer agrees to implement the recommendations of the report "Proposed Activa Huron (B2 Lands) Development-Huron Road &

Strasburg Road Kitchener Ontario-Noise Impact Study FINAL REPORT" dated June 22, 2022, as prepared by Stantec Consulting Limited further agrees that:

b) Proposed Building (ALL DWELLING UNITS)

North and East Facades

- The dwelling/building will be installed forced air-ducted heating and ventilation system suitable sized and designed for the provision of installation of central air conditioning at the occupant's discretion.
- The following Noise Warning Clauses be included on all offers of purchase, deeds and rental agreements for the building:

"Purchasers/tenants are advised that sound levels due to increasing road traffic on Huron Road may occasionally 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"

"This dwelling unit has been designed with the provision for 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."

South Façade

- The dwelling/building will be installed forced air-ducted heating and ventilation system suitable sized and designed for the provision of installation of central air conditioning at the occupant's discretion.
- The building/units will be designed and installed with special building components with a minimum STC Rating of 29.
- The acoustic assessment will be updated, and the STC Rating values will be reviewed once the final design and the architectural drawings are available.
- The following Noise Warning Clauses will be required to be included on all offers of purchase, deeds and rental agreements for the building:

"Purchasers/tenants are advised that sound levels due to increasing road traffic on Huron Road may occasionally 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 and Parks."

"This dwelling unit has been designed with the provision for 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."

North, South and East Façades

- **The following Noise Warning Clauses will be required to be included on all offers of purchase, deeds and rental agreements for the building:**

"Purchasers/tenants are advised that due to the proximity of the adjacent industrial and commercial facilities, noise from these facilities may at times be audible."

- c) **That a certificate of compliance from a Professional Engineer qualified in acoustics, licensed in the Province of Ontario, certifying that the noise mitigation measures in Clauses a) and b) above have been provided and meets the required noise level objectives of the MECP NPC-300 guidelines.**

15. The owner/applicant must submit a Salt Management Plan for review and acceptance by the Regional Commissioner of Planning, Development and Legislative Services.

REPORT HIGHLIGHTS:

- The purpose of this report is to recommend approval of the proposed consent applications and associated minor variance applications to permit the creation of a new residential development and a new commercial development.
- 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 at 485 and 495 Huron Road are located on the north side of Huron Rd, in close proximity to the roundabout intersection of Huron Road and Strasburg Road and are currently vacant. The applicant has proposed a ten (10) storey residential building on the west side of the property (495 Huron Road) and a 1 storey commercial building on the east side of the property (485 Huron Road). The retained lands at the rear of the property are to remain undeveloped.

The subject properties are identified as 'Community Node' and 'Green Lands' on Map 2 – Urban Structure and are designated 'Mixed Use', 'Commercial' and 'Natural Heritage Conservation' on Map 3 – Land Use in the City's 2014 Official Plan.

495 Huron Road is zoned 'Mixed Use Two Zone (MIX-2) with Site Specific Provision (122)', 485 Huron Road is zoned 'General Commercial' (COM-2) with Site Specific

Provision (119)', and the lands at the rear of the property are zoned 'Natural Conservation Zone (NHC-1)' in Zoning By-law 2019-051.

Minor variance applications are required for each property to facilitate the proposed developments.

City Planning staff conducted a site inspection of the property on July 27, 2023.

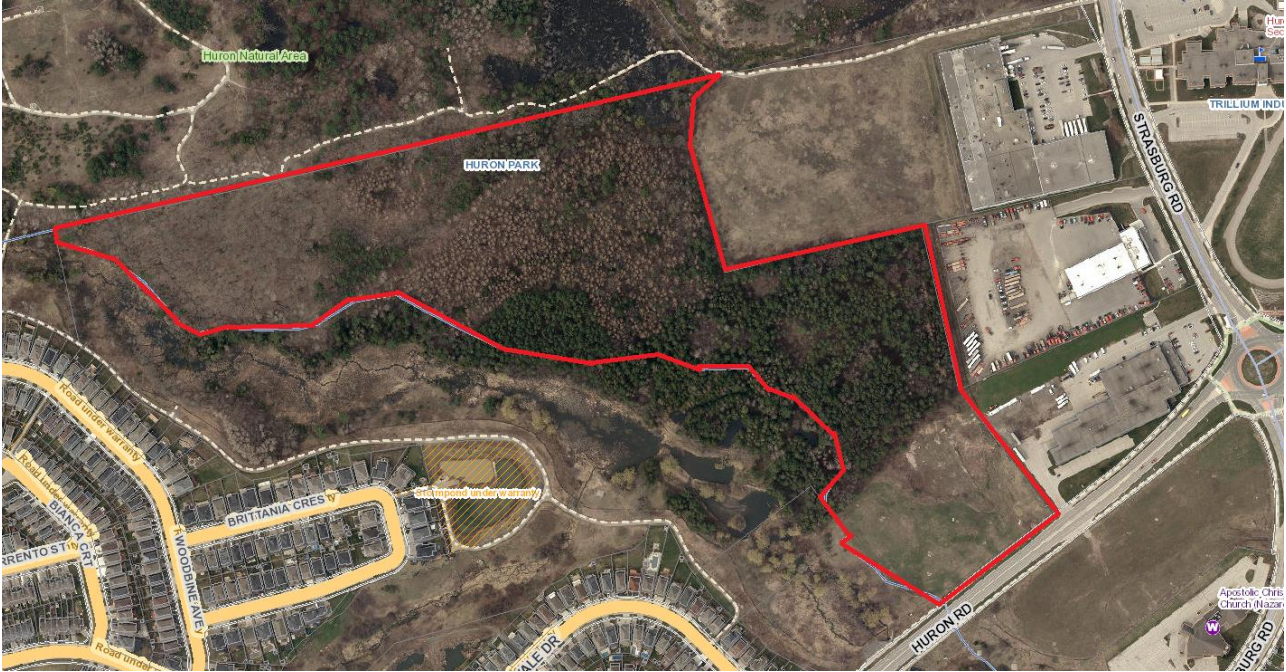


Image 1 - Location Map: 485 and 495 Huron Road



Image 2 - Existing property 485 and 495 Huron Road

The applicant is proposing to create a new ten (10) storey residential building and a new one (1) storey commercial building on the proposed new lots. Both properties have submitted for Site Plan approval, and both plans have received conditional approval under Site Plan Applications SP22/128/H/TS and SP23/005/H/TS. An easement has also been requested over 495 Huron Road, to permit access to 485 Huron Road and the retained Natural Heritage Conversation lands at the rear, which will allow for one access entry/exit within the entire site.

The lands to be severed for 485 Huron Road will have a width of 56.2 metres, a depth of 149.7 metres and an area of 0.84 hectares (Lands to be severed 2 in the image below). The lands to be severed for 495 Huron Road will have a lot width of 79.3 metres, a depth of 149.7 metres and a lot area of 1.49 hectares. An access easement will have a width of 7.3 metres, a depth of 149.72 metres and an area of 0.1 hectares. The retained lands will have a lot area of 13.7 hectares and is an irregular shaped lot. The easement will allow access over 495 Huron Road in favour of 485 Huron Road and the retained lands at the rear of 485 and 495 Huron Road.

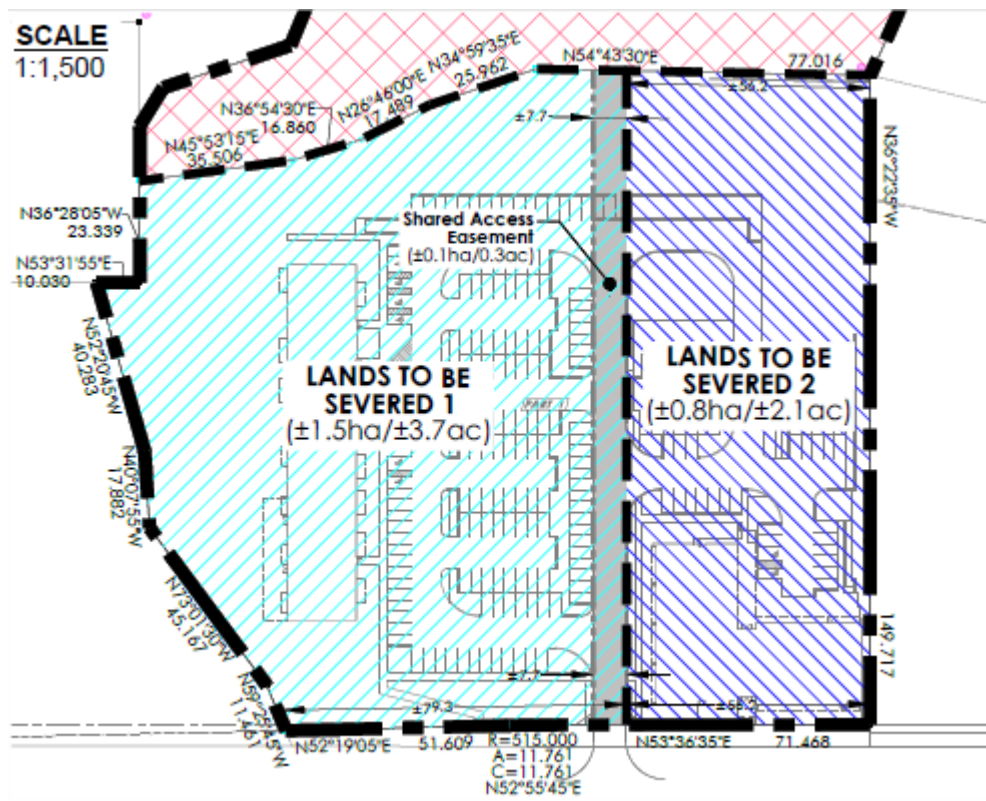


Image 3 – Proposed Severance Sketch

REPORT:

Planning Comments Minor Variance Application A2023-102:

The applicant is requesting relief from Section 9.3, Table 9-2 of Zoning By-law 2019-051, to permit an interior side yard setback of 1.5 metres instead of the required 3.0 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 subject lands are designated 'Commercial' in the City of Kitchener Official Plan. Lands designated commercial use will provide for a range of commercial activities and are intended to ensure that commercial activities are well distributed, accessible and able to respond to the needs of the city's residents, employees, businesses and visitors. Section 15.5.2 states that an objective of the Commercial designation is to provide development opportunities in locations close to where people live and work to help achieve complete communities. The requested variance to permit a reduced side yard setback supports the objectives and policies of the commercial designation. Staff is of the opinion that the intent of the Official Plan is maintained.

General Intent of the Zoning By-law

The intent of the regulation that requires an interior side yard setback of 3 metres is to provide adequate separation of buildings and provide for site functionality. The proposed side yard setback of 1.5 metres is required due to the slope of the lands and the requirement for a retaining wall. The adjacent property is employment lands and there will be no impact to the employment use as a result of the reduced side yard setback. The adjacent building is over 30 metres away from the property line and there will be no concerns with separation distance or site functionality. Therefore, Staff is of the opinion that the requested variance for a reduction to the interior side yard setback meets the general intent of the Zoning By-law.

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

Staff is of the opinion that the effects of the variance is minor. Given the side yard setback is adjacent to the employment lands to the east and that the reduction is 1.5 metres, Planning staff do not expect any adverse impacts as a result of the requested variance, and therefore the effects can be considered minor.

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

Staff is of the opinion that the variance is desirable for the appropriate development and use of the lands, building and/or structure. The proposed variances support the creation of a commercial development on the property.

Planning Comments Minor Variance Application A2023-103:

The applicant is requesting relief from Section 8.3, Table 8.2 of Zoning By-Law 2019-051 for the following:

- i) To permit the maximum number of storeys in the base of a mid-rise building or tall building of 10 storeys instead of the maximum permitted 6 storeys;
- ii) To permit a minimum street line step back for mid rise building and tall building of 0 metres instead of the minimum required 3 metres;
- iii) To permit a ground floor street line façade width as a percent of the width of the abutting street line of 20% instead of the minimum required 50%; and
- iv) To permit the minimum percent of street line façade openings of 0% instead of the minimum required 50%.

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 lands are designated 'Mixed Use' in the City of Kitchener Official Plan. Lands designated Mixed Use are intended to be flexible and responsive to land use pattern changes and demands and permit a broad range of uses at different scales and intensities depending on the lands' geographic location and identification at the urban structure level. As such, an appropriate and compatible mix and range of commercial, retail, institutional and residential uses, at different scales and intensities will be encouraged and supported within lands designated Mixed Use. Staff is of the opinion the proposed development will provide residential uses in a form and density that is compatible with the surrounding neighbourhood, and therefore the requested variances meet the general intent of the Official Plan.

General Intent of the Zoning By-law

Maximum number of storeys in the base of a mid-rise building and minimum street line setback

The intent of the regulations for maximum number of storeys and minimum street line setback are to ensure compatible built form in close proximity to the street line and public realm as well as adjacent properties. The proposed front yard setback of 25.0 metres and side yard setback of 12.7 meters of the building means the development will have additional separation from the streetscape. Because of this separation no base is proposed within the building. Furthermore, the area in question is more car dominated and there are no other mixed use properties on this side of the street that would require the building to be set closer to the front property line setback. Additional enhanced landscaping is also required within the front yard in order to provide additional screening of the building. Staff is of the opinion that the requested variances meet the general intent of the Zoning By-law.

Minimum ground floor street line façade and minimum percent street line façade openings

The intent of the regulations for minimum ground floor street line façade width as a percent of the width of the abutting street line and minimum percent of street line façade openings is to ensure adequate street frontage within the public realm that maintains building facades with active façade openings in downtown and urban core settings. The subject lands are not located with the Urban Growth Centre or Major Transit Station Area and the property is surrounded by low rise residential, employment uses and natural heritage lands. The proposed 25.0 metre setback of the building means the building is separated from the streetscape and the enhancements that these regulations intend to complement the street frontage are not applicable. Staff is of the opinion that the requested variances meet the general intent of the Zoning By-law.

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

The effects of the requested variances are not expected to cause adverse impacts to the abutting lands or surrounding neighbourhood. Staff are of the opinion that effects of the variances are minor.

Is/Are the Variance(s) 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 an affordable housing project and ancillary support services and legalize existing site conditions.

Planning Comments Consent Applications B2023-032 and B2023-033:

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 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.

The subject lands are located within the City's delineated built up area. The severance application will help make efficient use of existing infrastructure, parks, roads, trails and transit and allow for one entry onto Huron Road by providing a shared access between 485 and 495 Huron Road and the Natural Heritage Conservation lands at the rear .

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 application 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 applications conforms to the Regional Official Plan.

City's Official Plan (2014)

The subject properties are identified as 'Community Node' on Map 2 – Urban Structure and are designated 'Mixed Use and Commercial' 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.”

Planning staff is of the opinion that the size, dimension and shape of the lots as a result of the severance are suitable for the use of the lands and compatible with the surrounding neighbourhood. The lands front onto a public street and full services are available. Planning staff is of the opinion that the proposed severances conform with the City of Kitchener Official Plan.

Zoning By-law 2019-051

The subject property is zoned as 'Mixed Use Two Zone (MIX-2) with Site Specific Provision (122)', 'General Commercial (COM-2) with Site Specific Provision (119)' and 'Natural Conservation (NHC-1)' in Zoning By-law 2019-051.

Planning staff is of the opinion that the uses, size, dimensions, and shape of the proposed lots comply with the Zoning By-law and are suitable for the use of the lands and compatible with the surrounding neighbourhood.

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 and the easement are desirable and appropriate.

Environmental Planning Comments:

Natural heritage and tree management issues are being addressed through the Site Plan Applications.

Heritage Planning Comments:

No heritage planning concerns.

Building Division Comments:

The Building Division has no objections to the proposed variances provided building permits for the commercial building and new apartment building 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 consents.

Engineering Division Comments:

B2023-032 – 485 Huron Road (Commercial)

- 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 Jason Brule (jason.brule@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 municipal sanitary sewer. If basement finished floor elevations do not allow for gravity drainage to the existing municipal sanitary system, the owner will have

to pump the sewage to achieve gravity drainage from the property line to the municipal sanitary sewer in the right of way.

B2023-033 – 495 Huron Road (Residential)

- 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 Jason Brule (jason.brule@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 municipal sanitary sewer. If basement finished floor elevations do not allow for gravity drainage to the existing municipal sanitary system, the owner will have to pump the sewage to achieve gravity drainage from the property line to the municipal sanitary sewer in the right of way.

Parks/Operations Division Comments:

A2023-102 – 485 Huron Road (Commercial)

Parks and Cemeteries concerns and requirements have been addressed through SP23/005/H/TS

A2023-103 – 495 Huron Road (Residential)

Parks and Cemeteries concerns and requirements have been addressed through SP22/128/H/TS

B2023-032 – 485 Huron Road (Commercial)

Parkland dedication requirements will be addressed through SP23/005/H/TS. Parks and Cemeteries have some concerns with the retained NHC portion of the lands lacking legal frontage on a street – see 2019-051 Section 4.6. In addition, the existing/proposed grading for the shared access easement may not allow functional access to the retained lands.

B2023-033 – 495 Huron Road (Residential)

Parkland dedication requirements will be addressed through SP22/128/H/TS. Parks and Cemeteries have some concerns with the retained NHC portion of the lands lacking legal frontage on a street – see 2019-051 Section 4.6. In addition, the existing/proposed grading for the shared access easement may not allow functional access to the retained lands.

Planning Response to Parks and Cemeteries Comments

Planning staff have reviewed Section 4.6 of Zoning By-law 2019-051 and have no concerns with creating a parcel with no frontage as it is the intent that the retained lot will be dedicated to the City by the owner and that it will merge with other City land that are within the Huron Natural area. The width of the shared access easement is sufficient for the shared Commercial and Residential uses. In future if the lands are conveyed to the City and access the Natural Heritage Conservation lands is not functional, the City will be able to modify and/or create a new access easement, without Consent, to ensure an appropriate and functional access to the Natural Heritage Conservation lands.

Transportation Planning Comments:

Transportation Services have no concerns with this application.

Region of Waterloo Comments:

A2023-103 – 485 Huron Road (Residential) – There are no concerns. The owners should ensure that this does not affect the recommendations of the approved noise study for this development.

B2023-032 - 485 Huron Road (Severed Lands 2 - Commercial)

The purpose of the application is to create a new 0.84 ha commercial lot. This application is processed together with B2023-033 below.

Source Water Protection

For information, the developable portion of this property is designated a Wellhead Protection Sensitivity Area 8 on Map 6a in the Regional Official Plan (ROP). The purpose of this designation and the corresponding policies in Chapter 8 of the ROP is to protect long term municipal groundwater supplies.

Notice of Source Protection Plan Compliance (Section 59 Notice)

As the subject lands are also located in a Source Protection Area where Grand River Source Protection Plan policies implemented by the Region of Waterloo apply. Per s. 59 of the Clean Water Act, 2006 a Notice of Source Protection Plan Compliance is required as part of a complete application submission.

To apply for a Notice of Source Protection Plan Compliance (Section 59 Notice) the owner/applicant must complete the questionnaire at <https://taps.regionofwaterloo.ca/> listing all applicable activities prescribed under the Clean Water Act related to the application. A Notice will only be considered valid if the following criteria are met;

- Applicant has signed the Notice;
- Address and application type on the Notice match the rest of the application; and
- All activities related to the proposed application are listed in Schedule 1.

Invalid Notices will not be accepted and may result in delayed approvals.

Environmental Planning

The lands at 485 and 495 Huron Road have previously been the subject of Planning Act applications that required an EIS and mitigation measures identified through that study. Other than the zoning of the environmental features and the associated buffers, there

were environmental measures to be implemented through site plan approvals at the City level.

Environmental Noise Study

A detailed noise study "Proposed Activa Huron (B2 Lands) Development-Huron Road & Strasburg Road Kitchener Ontario-Noise Impact Study FINAL REPORT" dated June 22, 2022, as prepared by Stantec. The Region, through a letter dated January 19, 2023, accepted this noise report. The recommendations of the above report, as detailed in the acceptance letter, apply to both applications (Severed Lands 1 - 495 Huron Rd and Severed Lands 2 - 485 Huron Rd).

As a condition of the Consent application B2023-033 for the Residential Development, the recommendations (1 to 6) of the above-approved noise report, as detailed in the acceptance letter will be implemented through a registered agreement with the City of Kitchener.

Please note that recommendation 7, noted in the Region's Acceptance Letter, also apply to the Consent Application B 2023-032 (Commercial), which notes,

“Outdoor mechanical equipment such as rooftop chillers or air makeup units for the proposed commercial buildings, i.e., Commercial Units and Activa Design Studio, will be designed to have a noise impact of less than 35dBA at any residential unit(s) on the proposed residential building.”

The noise study recommendations to be secured in an agreement with the City of Kitchener are detailed below.

Salt Management Plan

A Salt Management Plan will be required for both severed Lands 1 (495 Huron Road) and Lands 2 (485 Huron Road).

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 Consent Application B2023-032, 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 must submit a valid Notice of Source Protection Plan Compliance (Section 59 Notice) as per the Clean Water Act, 2006.
- 3) The owner/applicant must enter into a registered agreement with the City of Kitchener to provide that all outdoor mechanical equipment such as rooftop chillers or air makeup units for the proposed commercial buildings, i.e., Commercial Units and Activa Design Studio, will be designed to have a noise impact of less than 35dBA at

any residential unit(s) on the proposed residential building municipally known as 495 Huron Road.

The agreement must also include a provision to provide a certificate of compliance from a Professional Engineer qualified in acoustics, licensed in the Province of Ontario, certifying that the above mechanical equipment meets the required noise level objective.

- 4) The owner/applicant must submit a salt management plan for review and acceptance by the Regional Commissioner of Planning, Development and Legislative Services.

B2023-033

495 Huron Road (Severed Lands 1 Residential)

The purpose of the application is to create a new 1.49 ha residential lot together with shared access easement over 485 Huron Rd. This application is processed together with B2023-032 above.

Source Water Protection

For information, the developable portion of this property is designated a Wellhead Protection Sensitivity Area 8 on Map 6a in the Regional Official Plan (ROP). The purpose of this designation and the corresponding policies in Chapter 8 of the ROP is to protect long term municipal groundwater supplies.

Notice of Source Protection Plan Compliance (Section 59 Notice)

As the subject lands are also located in a Source Protection Area where Grand River Source Protection Plan policies implemented by the Region of Waterloo apply. Per s. 59 of the Clean Water Act, 2006 a Notice of Source Protection Plan Compliance is required as part of a complete application submission.

To apply for a Notice of Source Protection Plan Compliance (Section 59 Notice) the owner/applicant must complete the questionnaire at <https://taps.regionofwaterloo.ca/> listing all applicable activities prescribed under the Clean Water Act related to the application. A Notice will only be considered valid if the following criteria are met;

- Applicant has signed the Notice;
- Address and application type on the Notice match the rest of the application; and
- All activities related to the proposed application are listed in Schedule 1.

Invalid Notices will not be accepted and may result in delayed approvals.

Environmental Planning

The lands at 485 and 495 Huron Road have previously been the subject of Planning Act applications that required an EIS and mitigation measures identified through that study. Other than the zoning of the environmental features and the associated buffers, there were environmental measures to be implemented through site plan approvals at the City level.

Environmental Noise Study

A detailed noise study "Proposed Aactiva Huron (B2 Lands) Development-Huron Road & Strasburg Road Kitchener Ontario-Noise Impact Study FINAL REPORT" dated June 22,

2022, as prepared by Stantec. The Region, through a letter dated January 19, 2023, accepted this noise report.

The recommendations of the above report, as detailed in the acceptance letter, apply to both applications (Severed Lands 1 - 495 Huron Road and Severed Lands 2 - 485 Huron Road).

As a condition of the Consent application B2023-033 for the Residential Development, the recommendations (1 to 6) of the above-approved noise report, as detailed in the acceptance letter will be implemented through a registered agreement with the City of Kitchener.

Please note that recommendation 7, noted in the Region's Acceptance Letter, also apply to the Consent Application B2023-032 (Commercial), which notes,

Outdoor mechanical equipment such as rooftop chillers or air makeup units for the proposed commercial buildings, i.e., Commercial Units and Activa Design Studio, will be designed to have a noise impact of less than 35dBA at any residential unit(s) on the proposed residential building.

The noise study recommendations to be secured in an agreement with the City of Kitchener are detailed below.

Salt Management Plan

A Salt Management Plan will be required for both Severed Lands 1 (495 Huron Road) and Lands 2 (485 Huron Road).

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 must submit a valid Notice of Source Protection Plan Compliance (section 59 notice) as per the Clean Water Act, 2006.
- 3) The owner/applicant must enter into a registered agreement with the City of Kitchener to provide the following:
 - a) The developer agrees to implement the recommendations of the report "Proposed Activa Huron (B2 Lands) Development-Huron Road & Strasburg Road Kitchener Ontario-Noise Impact Study FINAL REPORT" dated June 22, 2022, as prepared by Stantec Consulting Limited further agrees that:
 - b) Proposed Building (ALL DWELLING UNITS)

North and East Facades

- The dwelling/building will be installed forced air-ducted heating and ventilation system suitable sized and designed for the provision of installation of central air conditioning at the occupant's discretion.
- The following Noise Warning Clauses be included on all offers of purchase, deeds and rental agreements for the building:

"Purchasers/tenants are advised that sound levels due to increasing road traffic on Huron Road may occasionally 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."

"This dwelling unit has been designed with the provision for 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."

South Façade

- The dwelling/building will be installed forced air-ducted heating and ventilation system suitable sized and designed for the provision of installation of central air conditioning at the occupant's discretion.
- The building/units will be designed and installed with special building components with a minimum STC Rating of 29.
- The acoustic assessment will be updated, and the STC Rating values will be reviewed once the final design and the architectural drawings are available.
- The following Noise Warning Clauses will be required to be included on all offers of purchase, deeds and rental agreements for the building:

"Purchasers/tenants are advised that sound levels due to increasing road traffic on Huron Road may occasionally 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 and Parks."

"This dwelling unit has been designed with the provision for 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."

North, South and East Façades

- The following Noise Warning Clauses will be required to be included on all offers of purchase, deeds and rental agreements for the building:

"Purchasers/tenants are advised that due to the proximity of the adjacent industrial and commercial facilities, noise from these facilities may at times be audible."

- 4) That a certificate of compliance from a Professional Engineer qualified in acoustics, licensed in the Province of Ontario, certifying that the noise mitigation measures in Clause 3) above have been provided and meets the required noise level objectives of the MECP NPC-300 guidelines.
- 5) The owner/applicant must submit a Salt Management Plan for review and acceptance by the Regional Commissioner of Planning, Development and Legislative Services.

GRCA Comments:

See Attachment 'A'.

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

ATTACHMENTS:

Attachment A – GRCA Comments

Attachment B – 485 Huron Road Site Plan – SP23/005/H/TS

Attachment C – 495 Huron Road Site Plan – SP22/128/H/TS