

**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** October 17, 2023

**SUBMITTED BY:** Tina Malone-Wright, Supervisor, Development Applications  
519-741-2200 ext. 7765

**PREPARED BY:** Adam Zufferli, Student Planner, 519-741-2200 ext. 7074

**WARD(S) INVOLVED:** Ward 10

**DATE OF REPORT:** September 28, 2023

**REPORT NO.:** DSD-2023-436

**SUBJECT:** Consent Application B2023-037 – 38 Braun Street

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**RECOMMENDATION:**

That Consent Application B2023-037 requesting consent to sever a parcel of land having a lot width of 10 metres, a lot depth of 40 metres and a lot area of 402.6 square metres, 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.**
- 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 shall implement a suitable design solution for a sump pump outlet to the satisfaction of the Director of Engineering.**
- 10. 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, 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 any building permit(s).**
  - 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, Site Plans.**

- 11. That the owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication of \$4,727.00.**
- 12. That prior to final approval, the Owner/Applicant is required to have a licensed Archaeologist complete an Archaeological Assessment of the severed lands and provide a copy of the Ministry's Acknowledgement letter(s) and the Assessment report(s) to the satisfaction of the Region of Waterloo's Planning, Development and Legislative Services Department.**
- 13. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.**

**REPORT HIGHLIGHTS:**

- The purpose of this report is to review an application for consent to sever a residential lot containing an under-construction detached dwelling into two lots to allow for a new detached dwelling to be constructed on the severed lands.
- 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 on located on Braun Street. The rear lot line abuts the Mount Hope Cemetery to the northeast. The existing use of the property is a detached duplex dwelling which is currently under construction.

The subject property is identified as 'Major Transit Station 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 'Residential Five Zone (R-5)' in Zoning By-law 85-1.

The purpose of the application is to sever a residential lot containing an under-construction detached dwelling to allow for a new detached dwelling to be constructed on the severed lands. The severed lot would have a lot frontage of 10 metres, a lot depth of 40 metres, and a lot area of 402.6 square metres. The dimensions of the retained lot are the same as the severed lot.



Figure 1 – Location of Subject Property

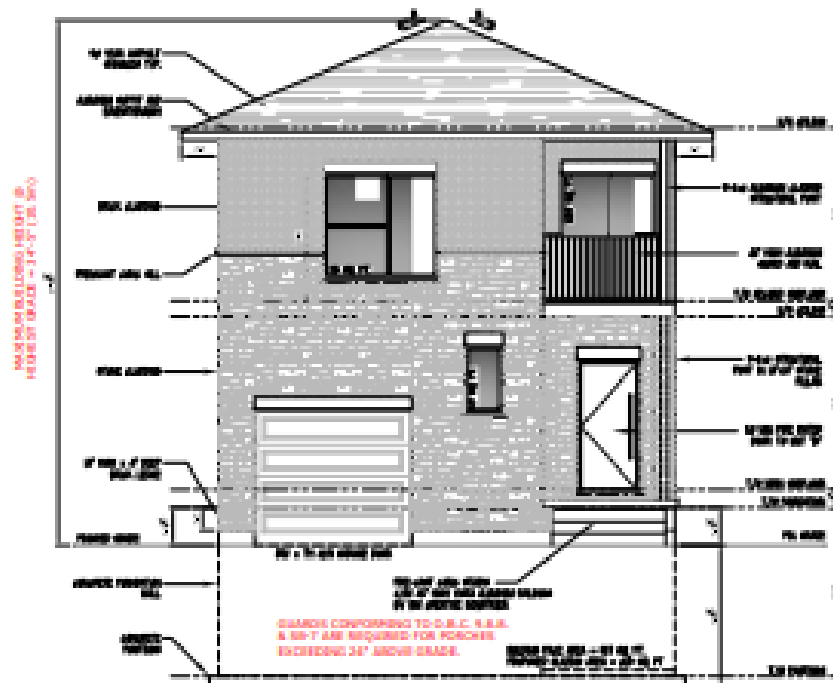


Figure 2 – Elevation Drawing Submitted for Building Permit



Figure 2 – Photo of Subject Property

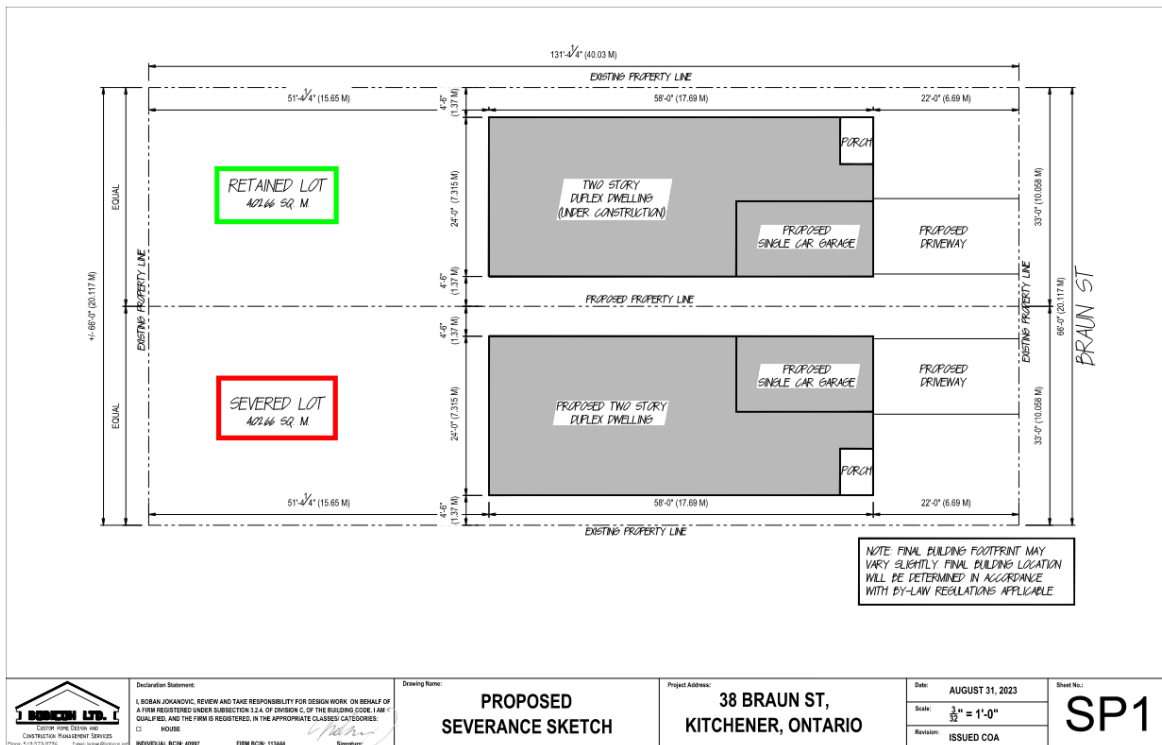


Figure 3 – Detailed Severance Sketch

## **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 Urban Area in the ROP. The proposed development conforms to Policy 2.C.2.2 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 'Major Transit Station 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 'R-5' 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 a full range of low-density housing types including detached, semi detached and multiple dwellings with lot 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 85-1

The subject property is zoned 'Residential Five Zone (R-5)' in Zoning By-law 85-1. The 'R-5' zone permits a range of low density dwelling types including duplex dwellings. The 'R-5' zone requires a minimum lot width of 9 metres for internal lots and a minimum lot area of 235 square metres. The proposed lot widths and lot areas of the severed and retained lots meet the minimum lot width and lot area requirements of the R-5 zone.

To facilitate the use of the severed and retained lots as duplex dwellings, two parking spaces will be required on each lot. Section 6.1.1 b) i) of Zoning By-law 85-1 permits one required parking space to be located within 6.0 metres of the street line where two or more parking spaces are required and permits parking spaces to be provided in tandem. 'Figure 3 – Detailed Severance Sketch' shows a proposed driveway for both the severed lot and the retained lot. Section 6.1.1. b) ii) states that driveways must have a minimum width of 2.6 metres, and where the lot width is less than 10.4 metres, the maximum width of a driveway shall be 5.2 metres.

#### **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 uses 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. The gentle intensification of the site from a single detached dwelling to a detached duplex dwelling on the severed and retained lots represents good planning and helps to meet the City's Housing Pledge. Staff is of the further 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:**

Given the presence of trees on the subject property and adjacent properties, the following condition is recommended.

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, 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 any building permit(s).

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, Site Plans.

**Grand River Conservation Authority Comments:**

The GRCA has no objection to the approval of this application. The subject property does not contain any natural hazards such as watercourses, floodplains, shorelines, wetlands, or valley slopes. The properties are not subject to Ontario Regulation 150/06 and, therefore, a permission from GRCA is not required.

**Heritage Planning Comments:**

The subject property is within the Mt. Hope/Breithaupt Neighbourhood CHL.

The Kitchener Cultural Heritage Landscape Study (CHLS) dated December 2014 and prepared by The Landplan Collaborative Ltd. was approved by Council in 2015. The CHLS serves to establish an inventory and was the first step of a phased Cultural Heritage Landscape (CHL) conservation process. The property municipally addressed as 38 Braun St. is located within the Mount Hope/Breithaupt Neighbourhood CHL. The City has undertaken additional work on examining the CHL significance of the CHL area through its work on drafting a new Secondary Plan for the Mount Hope/Breithaupt Neighbourhood area. For more information on the outcome of this CHL analysis and the specific recommendations which may impact properties located within the Mount Hope/Breithaupt Neighbourhood CHL, please visit the following link: [www.kitchener.ca/npr](http://www.kitchener.ca/npr).

**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 will be required for 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 Eric Riek ([eric.riek@kitchener.ca](mailto:eric.riek@kitchener.ca)).
- Any new driveways are to be built to City of Kitchener standards. All works are at the owner's expense and all work needs to be completed prior to occupancy of the building.
- A servicing plan showing outlets to the municipal servicing system will be required to the satisfaction of the Engineering Division prior to severance approval.
- A Development Asset Drawing (digital AutoCAD) is required for the new site infrastructure with corresponding layer names and asset information to the satisfaction of the Engineering Division prior to severance approval.
- The owner must ensure that the basement elevation of the building can be drained by gravity to the 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.
- The Owner shall implement a suitable design solution for a sump pump outlet to the satisfaction of the Director of Engineering.

#### **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 **\$4,727.00**. Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of 10.058 metre at a land value of \$36,080 per frontage metre with a per unit cap of \$11,862.

#### **Transportation Planning Comments:**

No concerns with this application.

#### **Region of Waterloo Comments:**

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

Regional Staff note the subject property possesses the potential for the recovery of archaeological resources due to the proximity to a cemetery (within 50m buffer), property location, age of the existing dwelling, proximity to other mapped historic buildings and a known historic landform. Regional staff note that a new dwelling is already under construction on the retained lands and the lands have been disturbed through demolition. The applicant is advised that if archaeological resources are discovered during future development or site alteration of the subject property, the applicant will need to immediately cease alteration/development and contact the Ministry of Citizenship and

Multiculturalism. If it is determined that additional investigation and reporting of the archaeological resources is needed, a licensed archaeologist will be required to conduct this field work in compliance with S.48(a) of the Ontario Heritage Act; and/or, if human remains or a grave site is discovered during development or site alteration of the subject property, the applicant will need to immediately cease alteration and must contact the proper authorities (police or coroner) and the Registrar at the Bereavement Authority of Ontario in Compliance with the Funeral, Burial and Cremation Services Act, 2002 S.96 and associated Regulations.

As per Regional Official Plan policy 3.G.9, the owner/applicant is required to have a licensed Archaeologist complete an Archaeological Assessment for the severed lands. The owner/applicant must submit the Archaeological Assessment report(s) to the Ministry of Citizenship and Multiculturalism, and once reviewed and accepted, provide a copy of the Ministry's Acknowledgement letter(s) and the Assessment report(s) to the satisfaction of the Region of Waterloo's Planning, Development and Legislative Services Department. The completed Archaeological Assessment(s) and Ministry Acknowledgement(s) will be required **prior to final approval**.

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

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00.
- 2) That prior to final approval, the owner/applicant is required to have a licensed Archaeologist complete an Archaeological Assessment of the severed lands and provide a copy of the Ministry's Acknowledgement letter(s) and the Assessment report(s) to the satisfaction of the Region of Waterloo's Planning, Development and Legislative Services Department.

**Hydro One Comments:**

We have reviewed the documents concerning the noted Application and have no comments or concerns at this time. **Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.**

**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 85-1*