

REPORT TO: Committee of Adjustment

DATE OF MEETING: December 12, 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 3

DATE OF REPORT: November 29, 2023

REPORT NO.: DSD-2023-531

SUBJECT: Minor Variance Application A2023-113 – 9 Siebert Avenue

RECOMMENDATION:

That Minor Variance Application A2023-113 for 9 Siebert Avenue requesting relief from the following sections of Zoning By-law 2019-051:

- i) Section 4.12.3 k) to permit an Additional Dwelling Unit (Detached) to be partially located in an exterior side yard, setback 4.5 metres from the street line, whereas the Zoning By-law does not permit an Additional Dwelling Unit to be located in an exterior side yard; and
- ii) Section 5.3.3. a) ii) to permit two (2) parking spaces to be located within 6.0 metres of a street line instead of the maximum permitted one (1) parking space within 6.0 metres of a street line;

to permit the construction of an Additional Dwelling Unit (ADU) (Detached) in the exterior side yard of the property, generally in accordance with drawings submitted with Minor Variance Application A2023-113, **BE APPROVED.**

REPORT HIGHLIGHTS:

- The purpose of this report is to review an application for minor variances to facilitate the construction of an Additional Dwelling Unit (Detached) partially in the exterior side yard of the subject property.
- The key finding of this report is that the requested minor variances need to be deferred to a future Committee of Adjustment meeting.
- 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 located on the corner of Siebert Avenue and Clark Avenue. The existing use of the property is a Single Detached dwelling with an Additional Dwelling Unit (ADU) (Attached).

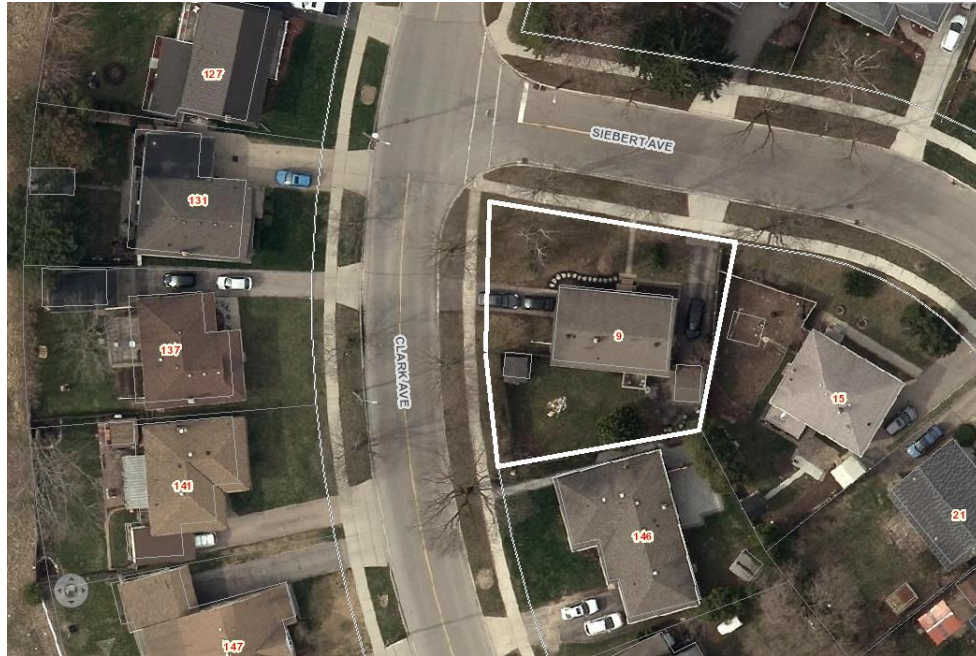


Figure 1 – Location of Subject Property

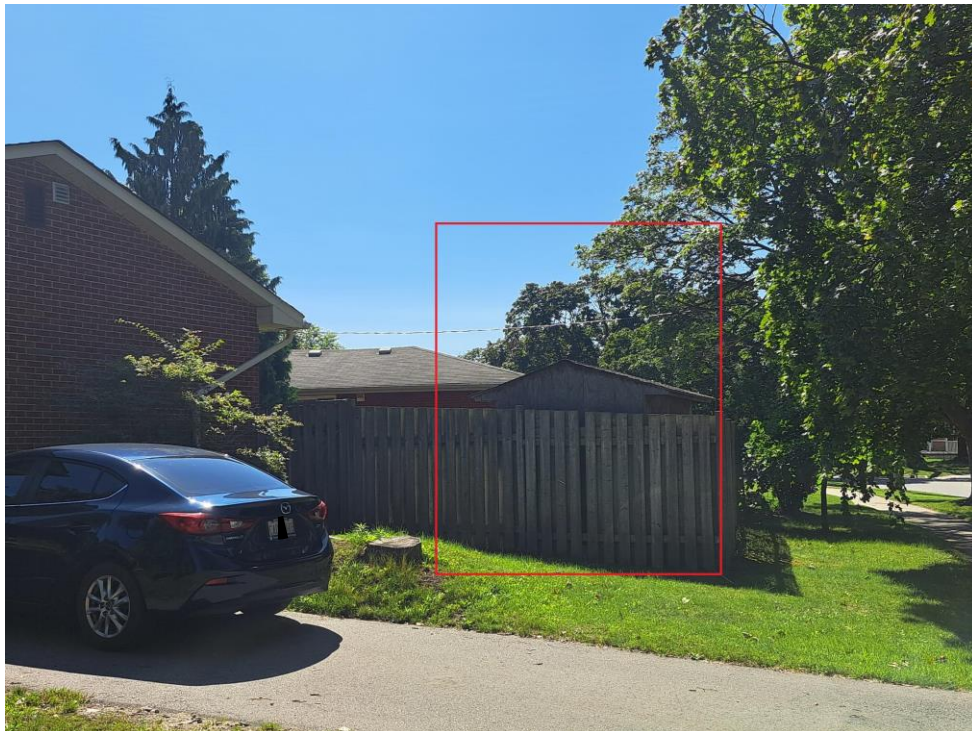


Figure 2 – Location of proposed ADU (Detached)



Figure 3 – Driveway with access to Siebert Ave



Figure 4 – Driveway with access to Clark Ave

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 'Low-Rise Residential Two Zone (RES-2)' in Zoning By-law 2019-051.

The purpose of the application is to facilitate the construction of an Additional Dwelling Unit (ADU) (Detached) partially in the exterior side yard of the subject property. The location of the proposed ADU is shown on 'Attachment A' and in 'Figure 2'.

The requested relief from the Zoning By-law is necessary to facilitate the construction of the ADU (Detached) in order to try and preserve a large evergreen tree. To facilitate a three (3) dwelling unit use of the property, two (2) required parking spaces will be located in tandem in the existing driveway with access onto Siebert Avenue, shown in 'Figure 3', and one (1) of these two (2) parking spaces will be located within 6 metres of a street line. One (1) parking space for the ADU (Detached) will be located in the existing driveway with access onto Clark Avenue, shown in 'Figure 4', and will be located within 6 metres of a street line.

The parking space for the ADU (Detached) will be provided but is not required since the property is shown on Appendix 'E' of Zoning By-law 2019-051 as being within 800 metres of an ION (LRT) station (See Section 4.12.3 p) of Zoning By-law 2019-051). The requested relief from the Zoning By-law is necessary to locate three parking spaces within the existing driveways.

Minor Variance A2023-113 was recommended to be deferred from September 19th's Committee of Adjustment Agenda. In circulation and review of the Minor Variance Application, GRCA noted that a portion of the subject property is within the regulated allowance adjacent to the floodplain associated with Montgomery Creek.

- The proposed ADU is in close proximity to the floodplain and GRCA policies do not permit new dwelling units within the floodplain. As such, GRCA staff have requested a Topographic Survey, with the floodplain delineated, to confirm that the proposed ADU will be outside the floodplain. GRCA staff will provide the floodplain elevation to the applicant under separate cover to assist in the preparation of the Topographic Survey.

The applicant has provided topographic information to GRCA and updated GRCA comments have been received from Planning Staff and discussed in the commenting section of this report.

REPORT:

Planning Comments:

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 as 'Low-Rise Residential' on Map 3 of the Official Plan. This designation permits a full range of low density housing types including duplexes, additional dwelling units, and other forms of low-rise housing. The intent of this designation is to ensure compatibility of building form, with respect to massing, scale and design in order to support the successful integration of a range of building types. It also places emphasis on the relationship of buildings to adjacent properties, streets, and exterior areas. As the existing duplex dwelling with an ADU (Detached) is permitted within the land use designation, Staff is of the opinion that the requested variance meets the general intent of the Official Plan.

General Intent of the Zoning By-law

Additional Dwelling Unit (ADU) (Detached) in Exterior Side Yard:

The intent of Section 4.12.3 k) of Zoning By-law 2019 which does not permit Additional Dwelling Units (ADU) (Detached) in front or exterior side yards is to ensure that an ADU (Detached) is located within the rear yard. This is generally to ensure that an adequate front and exterior side yard are provided on properties with an ADU (Detached), so that buildings do not locate in close proximity to a street line. The proposed ADU (Detached) meets all the setbacks that are required by the Zoning By-law, including the minimum exterior side yard setback of 4.5 metres that is required for single-detached dwellings in the RES-2 zone. The location of the proposed ADU (Detached) partially in the exterior side yard is to avoid conflict with the existing building and to protect a large evergreen tree on the site. Staff is of the opinion that the requested variance meets the general intent of the Zoning By-law.

Parking Spaces within 6.0 metres of a Street Line:

The intent of Section 5.3.3 a) ii) is to ensure that front and exterior side yards of lots do not primarily function as parking areas. To facilitate 3 dwelling units on the subject lands, two parking spaces are required and three parking spaces will be provided. Section 4.12.3 p)

states that no parking space shall be required for an ADU (Detached) on a property within 800 metres of an ION (LRT) station. The subject lands contain two existing driveways, shown in 'Figure 3' and 'Figure 4', which are able to accommodate three parking spaces. The parking space in the driveway with access to Clark Avenue will be set back 2.8 metres from the street line. One of the two parking spaces in the driveway with access to Siebert Avenue will be set back 0 metres from the street line. There is adequate landscaped area provided in both the front yard and exterior side yard of the subject property. Staff is of the opinion that the requested variance 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 requested variances are minor. The proposed ADU (Detached) will not impact neighbouring properties, as the street trees and existing fence will provide an adequate visual barrier. The street trees also provide a visual barrier between the existing driveways and neighbouring properties.

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 and appropriate for the use of the land as they will support a gentle intensification of the property, will make use of existing infrastructure, and support the City's Housing Pledge.

Environmental Planning Comments:

As discussed, No concerns as no trees in shared ownership appear to be affected. If survey for GRCA results in a new footprint being proposed, please re-assess potential impacts to any trees.

Heritage Planning Comments:

No comments.

Building Division Comments:

The Building Division has no objections to the proposed variance. A Building Permit application has been made for the detached additional dwelling unit and it is currently under review.

Engineering Division Comments:

Advisory comment: It is City policy for only 1 set of services per property.

Parks/Operations Division Comments:

No comments.

Transportation Planning Comments:

Transportation Services can support the proposed application to permit three (3) parking spaces to be located within 6 metres of the property line.

NOTE: The homeowner is responsible for obtaining an approved Curb Cut Permit from the City of Kitchener before modifying the curb in any way. This application can be filled out via the City of Kitchener website.

GRCA Comments [Revised Comments, dated November 24, 2023]:

Recommendation

Based on our review of an updated sketch that shows that the adjacent floodplain does not extend onto the subject property, the GRCA's previous comments have been addressed.

We have no objection to the approval of this minor variance application.

Please see our detailed comments below.

Documents Reviewed by Staff

Staff have reviewed the following documents submitted to the GRCA:

- Sketch showing elevations, prepared by Van Harten, dated November 17, 2023, received by GRCA November 21, 2023.

GRCA Comments

GRCA has reviewed this application under the Mandatory Programs and Services Regulation (Ontario Regulation 686/21), including acting on behalf of the Province regarding natural hazards identified in Section 3.1 of the Provincial Policy Statement (PPS, 2020), as a regulatory authority under Ontario Regulation 150/06, and as a public body under the *Planning Act* as per our CA Board approved policies.

Information currently available at this office indicates that a portion of the subject property is within the regulated allowance adjacent to the floodplain associated with Montgomery Creek. Due to the presence of the features noted above, a portion of the property is regulated by the GRCA under Ontario Regulation 150/06 - Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation. Any future development or other alteration within the regulated area will require prior written approval from GRCA in the form of a permit pursuant to Ontario Regulation 150/06.

The GRCA has reviewed the sketch of the property, which identifies that the floodplain does not extend onto the subject property. Therefore, the GRCA's previous comments have been addressed satisfactorily and we have no further objection to approval of this minor variance application.

The GRCA acknowledges receipt of payment in the amount of \$300 for our review of this application.

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:

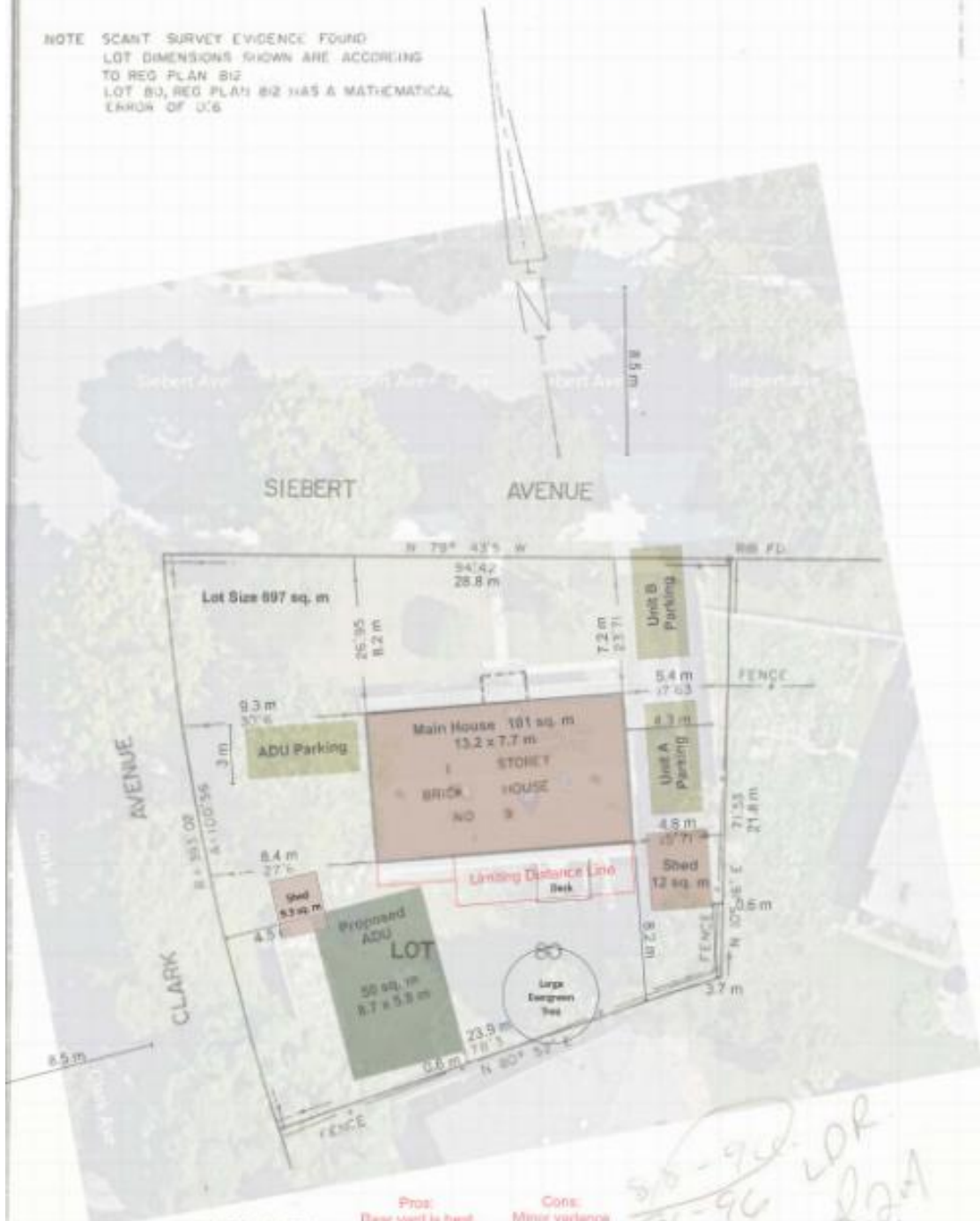
- *Planning Act*
- *Provincial Policy Statement (PPS 2020)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*

ATTACHMENTS:

- Attachment A – Site Plan
- Attachment B – GRCA Source Mapping

PLAN SHOWING
LOCATION OF BUILDING
ON LOT 80, REG. PLAN 812
CITY OF KITCHENER
SCALE 1:240 (1 inch = 20 feet)

NOTE SCANT SURVEY EVIDENCE FOUND
LOT DIMENSIONS SHOWN ARE ACCORDING
TO REG. PLAN 812
LOT 80, REG. PLAN 812 HAS A MATHEMATICAL
ERROR OF 0.6



THIS PLAN DOES NOT PURPORT TO REPRESENT A COMPLETE SURVEY CONDUCTED IN ACCORDANCE WITH ALL REGULATIONS UNDER THE SURVEYS ACT & THE REGISTRY ACT.

Pros:
Rear yard is best
Keep deck
Keep giant tree
More windows
Glass sliding door

Cons:
Minor variance

5/8-90 LOR
9/1-90 L2.1

Guenther Rueb

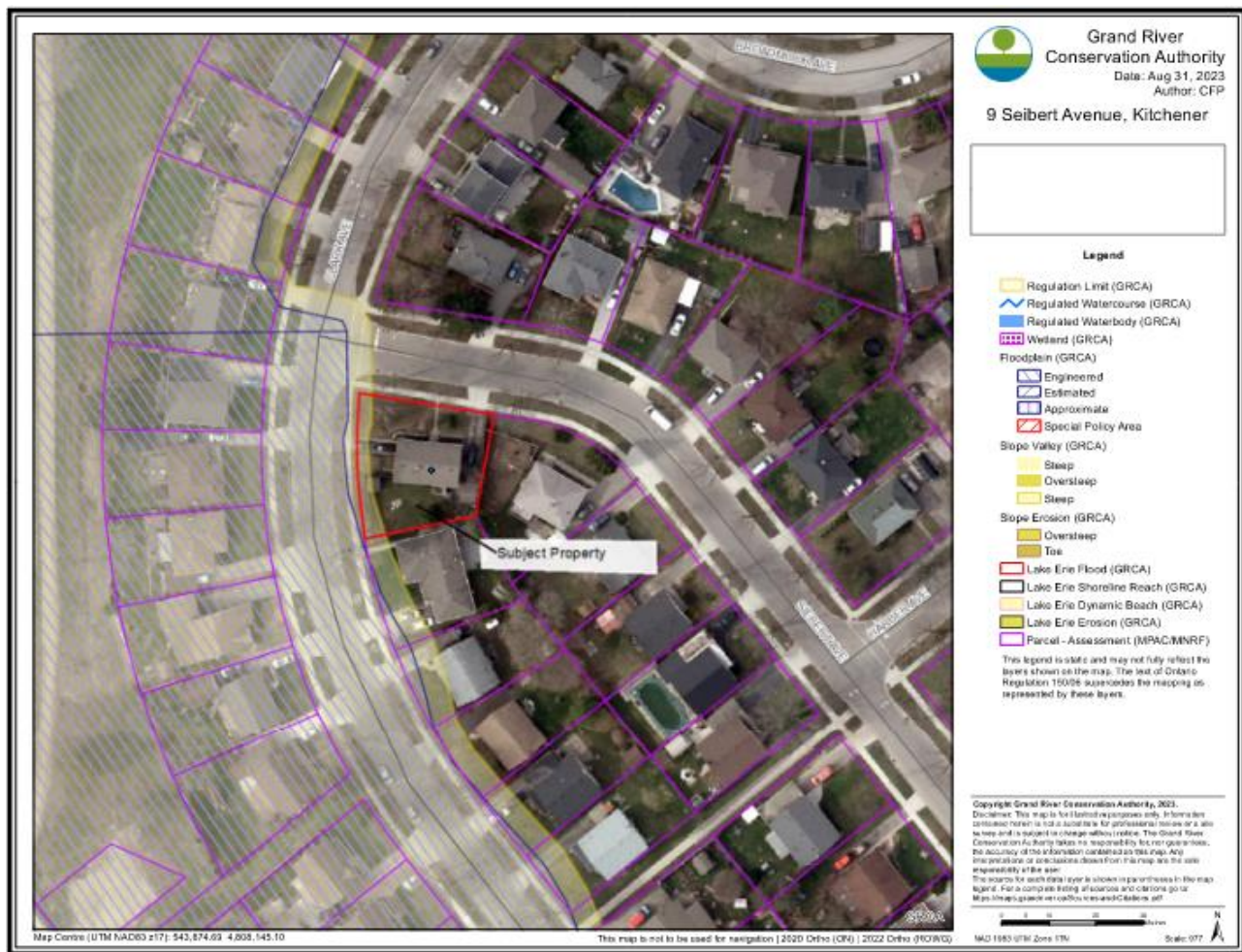
JOB NO.

72-14 (18)

AUGUST 22, 1980

GUENTHER RUEB
ONTARIO LAND SURVEYOR
KITCHENER, ONTARIO

Attachment A – Site Plan



Attachment B – GRCA Source Mapping