

# Staff Report



Development Services Department

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

**WARD(S) INVOLVED:** Ward 1

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

**REPORT NO.:** DSD-2023-539

**SUBJECT:** Consent Application B2023-043 – 18 Stanley Avenue

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## **RECOMMENDATION:**

That Consent Application B2023-043 requesting consent to sever a parcel of land having a lot width of 9.9 metres along Stanley Avenue, a lot depth of 35.4 metres and a lot area of 366 square metres, as shown on a revised plan prepared by Grit Engineering, November 24, 2023, BE APPROVED subject to the following conditions:

1. That the property owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
2. That the property owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.
3. That the property 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 obtains Demolition Control Approval, in accordance with the City's Demolition Control By-law, to the satisfaction of the City's Director of Planning.

5. That the Owner obtains a Demolition Permit, for the existing single detached dwelling proposed to be demolished, to the satisfaction of the Chief Building Official, and removes the existing dwelling prior to deed endorsement.
6. That the property owner shall enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor, to the satisfaction of the City Solicitor and the City's Supervisor, Site Plans, and registered on title of the severed and retained lands, which shall include the following prior to issuance of grading, servicing or a building permit:
  - a) That the property owner shall prepare a Tree Preservation and Enhancement Plan for the severed lands, in accordance with the City's Tree Management Policy, to the satisfaction of and approval by the City's Supervisor, Site Plans. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, a landscaped area and the vegetation to be preserved. No changes to the said plan shall be granted except with the prior approval of the City's Supervisor, Site Plans.
  - b) That the property owner shall implement the Tree Preservation and Enhancement Plan, prior to any tree removal, grading, servicing or the issuance of any demolition and/or building permits, to the satisfaction of the City's Supervisor, Site Plans.
  - c) That the property owner shall maintain the severed and retained lands, in accordance with the approved Tree Preservation and Enhancement Plan, for the life of the development.
7. The property owner shall 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.
8. 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.
9. A servicing plan showing outlets to the municipal servicing system will be required to the satisfaction of the Engineering Division prior to severance approval.
10. 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.
11. 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.

12. The Owner shall implement a suitable design solution for a sump pump outlet to the satisfaction of the Director of Engineering.
13. That the owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication of \$11,862.00.
14. That prior to final approval, the property owner shall enter into a registered development agreement with the City of Kitchener for severed and retained lands addressing the following requirements:
  - a) That Owner/Developer agrees to construct the dwelling(s) with a forced air-ducted heating system suitably sized and designed with provision for the installation of air conditioning in future at the occupant's discretion.
  - b) That the following noise warning clause will be included in all offers of purchase, deeds and rental agreements:

***“The purchasers/tenants are advised that sound levels due to increasing road traffic in the vicinity may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP). This dwelling has been fitted with a forced air-ducted heating system and 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 Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP).”***

#### **REPORT HIGHLIGHTS:**

- The purpose of this report is to recommend approval of a proposed consent application to create two (2) lots for a Single Detached Dwelling with an Additional Dwelling Unit (ADU) (Attached).
- The key finding of this report is that the Consent Application meets Provincial, Regional and City policies.
- 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 at 18 Stanley Avenue. The lot contains a single detached dwelling. Surrounding land use is low rise residential comprised of semi-and single

detached dwellings. The owner is seeking consent to sever a lot a new Single Detached Dwelling with an Additional Dwelling Unit (ADU) (Attached).



**Figure 1 – Location Map – 18 Stanley Avenue**

The subject property is identified as 'Community Areas' on Map 2 – Urban Structure and is designated 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan. The lands are also included in the 1980 Bridgeport East Secondary Plan and are designated 'Residential Infilling Low Density'. The property is zoned 'Residential Three Zone (R-3)' in Zoning By-law 85-1.

The existing single detached dwelling is proposed to be demolished and the purpose of the application is to sever the lot to allow the construction of two (2) Single Detached Dwellings with an Additional Dwelling Unit (ADU) (Attached) or Duplexes on the lands to be severed and retained (see Figure 2).

A site visit occurred on November 30, 2023.

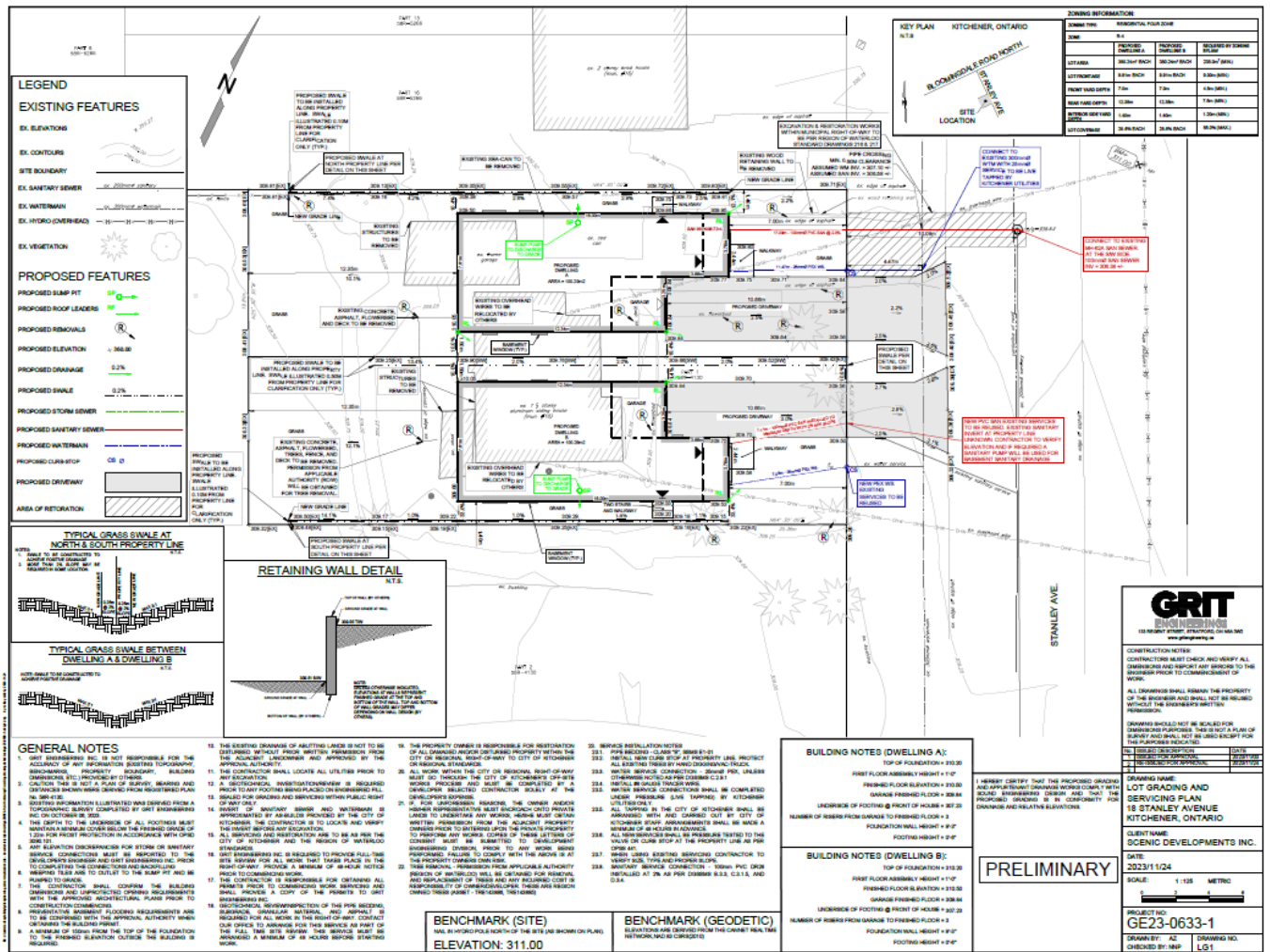


Figure 2 – Severance Sketch (revised dated November 24, 2023)



**Figure 3 – Photo of Front View of 18 Stanley Avenue**

## **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 and 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.

Policy 2.2.6.1(a) Municipalities will support housing choice through the achievement of the minimum intensification and density 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 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 Areas' on Map 2 – Urban Structure and is designated 'Low Rise Residential' on Map 3 – Land Use in the City's Official Plan. The Low Rise Residential land use designation permits a full range of low density housing types which may include single detached dwellings, duplex dwellings, semi-detached dwellings, street townhouse dwellings, and low-rise multiple dwellings. The Low Rise Residential land use designation encourages mixing and integrating different forms of housing to achieve and maintain a low-rise built form. The proposed severance is in accordance with this aspect of the plan and maintains the residential land use designation.

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.”

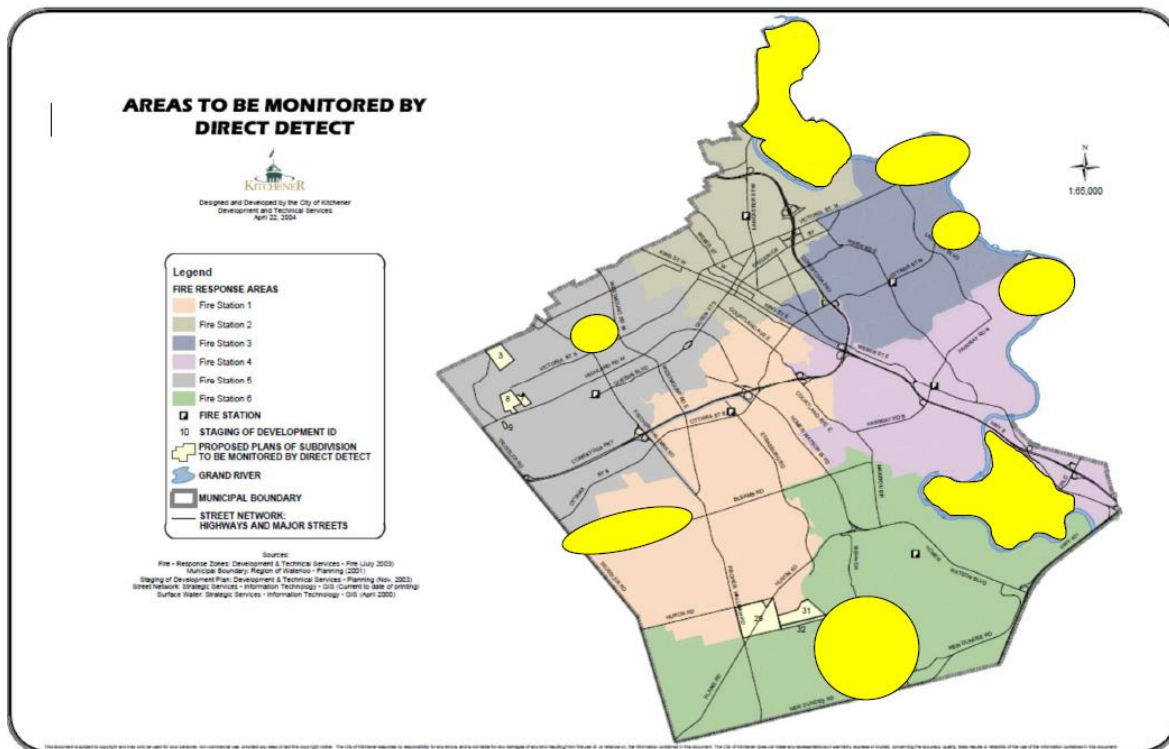
The lot widths and lot areas of the proposed severed and retained lands exceed the minimum ‘R-4’ zone lot width and lot area requirements. Planning staff is of the opinion that the size, dimensions and shape of the proposed lots are suitable for the use of the lands and are compatible with the surrounding neighbourhood which is developed with low rise residential uses including single detached dwellings, semi-detached dwellings and low-rise multiple dwellings, having a variety of heights and setbacks, with lots sizes that vary in width, depth, and area. The lands front onto a public street and full services are available in the right-of-way and must be connected to the severed lands prior to development. There are no natural heritage features that would be impacted by the proposed consent application.

The lands are identified as ‘Residential Infilling Low Density’ in the Bridgeport East Community Plan (BECP). Policies permit infilling with new single detached dwellings by way of severance on lots having a minimum width of 15.0 metres. The BECP was approved in Community plans have no legal status under the Planning Act of Ontario but must conform with the City’s Official Plan. Planning staff is of the opinion that the proposed severance conforms with the City of Kitchener Official Plan and Bridgeport East Community Plan because the approved zoning implements the Official Plan.

These lands also fall within an area of the City to be monitored by Direct Detect as shown in Figure 4 below.

Direct Detect will be required as a condition of the Building Permit Application for the new dwellings on both the severed and retained lots and the Building Inspector will confirm installation prior to occupancy.





**Figure 4 – Areas to be Monitored by Direct Detect**

### Zoning By-law 85-1

The subject property is zoned as ‘Residential Four Zone (R-4)’ in Zoning By-law 85-1, which primarily permits single, semi-detached, and additional dwelling units. The ‘R-4’ zone requires a minimum lot width of 9.0 metres and a lot area of 236 m<sup>2</sup> for a single detached or duplex dwelling. Both the lands to be severed and lands to be retained will comply with zoning by-law regulations. Staff is satisfied that the lands to be severed and retained are appropriately sized to permit the construction of a new detached dwellings with ADU’s (attached). Image 2 illustrates the proposed building and driveway locations. It demonstrates the lots are suitably sized, serviceable and can function appropriately. Staff note that the applicant has submitted a revised dwelling and driveway location plan (see Image 2) to address staff’s concern that the driveway of the proposed southerly lot was too close to a proposed access for a proposed subdivision south of and adjacent to the subject proposal. Driveway locations and widths will be reviewed at the Building Permit stage.

### **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 lot is desirable and appropriate. The future use of both the severed and retained parcels are in conformity with the City’s Official Plan and Zoning By-law. Planning staff is of the opinion that the size, dimensions and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding community. Staff is further of the opinion that the proposal is consistent with the Region of Waterloo Official Plan, the Provincial Policy Statement, conforms to the Growth Plan for the Greater Golden Horseshoe, and is good planning and in the public interest.

**Environmental Planning Comments:**

Given the treed nature of the lands to be severed, an agreement should be registered on the severed lands requiring the owner to submit, obtain approval of, and implement a Tree Preservation/ Enhancement Plan prior to demo, grading, building permit etc.

**Heritage Planning Comments:**

No 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 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, and water municipal services are currently available to service this property. Any further enquiries in this regard should be directed to [niall.melanson@kitchener.ca](mailto:niall.melanson@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 **\$11,862**. Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of 9.9 metres at a land value of \$36,080 per frontage metre with a per unit cap of \$11,862.

**Transportation Planning Comments:**

Transportation Services have no concerns with the proposed application.

**GRCA:**

GRCA has no objection to the approval of the above applications. The subject properties do 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.

**Hydro One:**

No concerns

**Region of Waterloo:**

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

1) That prior to final approval, the owner/developer shall enter into a registered development agreement with the City of Kitchener for severed and retained lands addressing the following requirements:

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

*"The purchasers/tenants are advised that sound levels due to increasing road traffic in the vicinity may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP). This dwelling has been fitted with a forced air-ducted heating system and 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 Waterloo Region and the Ministry of the Environment Conservation and Parks (MECP)."*

**STRATEGIC PLAN ALIGNMENT:**

This report supports the delivery of core services.

**FINANCIAL IMPLICATIONS:**

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

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

**COMMUNITY ENGAGEMENT:**

INFORM – This report has been posted to the City's website with the agenda in advance of the Committee of Adjustment meeting. A notice sign was placed on the property

advising that a Committee of Adjustment application has been received. The sign advises interested parties to find additional information on the City's website or by emailing the Planning Division. A notice of the application was mailed to all property owners within 30 metres of the subject property.

**PREVIOUS REPORTS/AUTHORITIES:**

- *Planning Act*
- *Provincial Policy Statement (PPS 2014)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan (ROP) & ROPA 6*
- *Official Plan (2014)*  
*Zoning By-law 85-1*