

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: January 16, 2024

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

PREPARED BY: Andrew Pinnell, Senior Planner, 519-741-2200 ext. 7668

WARD(S) INVOLVED: Ward 3

DATE OF REPORT: December 22, 2023

REPORT NO.: DSD-2024-032

SUBJECT: Consent Application B2023-042 and
Minor Variance Applications A2023-135 and A2023-136
52 Edgehill Drive

Minor Variance Application A2023-135 (Retained Lot)

A. That Minor Variance Application A2023-135 for 52 Edgehill Drive (Retained Lot) requesting relief from the following sections of Zoning By 2019-051:

- i) Section 19, Site-Specific Provision (272) to permit a lot area of 1,741.0 square metres instead of the minimum required 2,023 square metres; and
- ii) Section 5.4 f) to permit a driveway width of 16.5 metres for an existing driveway instead of the maximum permitted driveway width of 8.0 metres;

generally in accordance with the *Sketch for Severance Application*, prepared by Guenther Rueb Surveying Limited, attached to Report DSD-2024-032, BE APPROVED.

Minor Variance Application A2023-136 (Severed Lot)

B. That Minor Variance Application A2023-136 for 52 Edgehill Drive (Severed Lot) requesting relief from Section 19, Site-Specific Provision (272), of Zoning By-law 2019-051 to permit a lot area of 1,253.6 square metres instead of the minimum required 2,023 square metres, generally in accordance with the *Sketch for Severance Application*, prepared by Guenther Rueb Surveying Limited, attached to Report DSD-2024-032, BE APPROVED.

Consent Application B2023-042

C. That Consent Application B2023-042 requesting consent to sever a parcel of land having an approximate frontage on Edgehill Drive of 35.4 metres, a lot depth of 45.4 metres and a lot area of 1,253.6 square metres, generally in accordance with the *Sketch for Severance Application*, prepared by Guenther Rueb Surveying Limited, attached to Report DSD-2024-032, BE APPROVED subject to the following conditions:

- 1. That Minor Variance Applications A2023-135 and A2023-136 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 shall remove the existing shed, or relocate it to the Retained Lot, to the satisfaction of the City's Director of Development and Housing Approvals.**
- 6. That the owner shall remove any existing tile bed on the Severed Lot, to the satisfaction of the Region of Waterloo and City's Building Division.**
- 7. That at the sole option of the City's Director of Development and Housing Approvals, 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 Development and Housing Approvals, which shall include the following:**
 - a) That the owner shall prepare a Tree Preservation Plan for the Severed Lot and Retained Lot, in accordance with the City's Tree Management Policy, to be approved by the City's Director of Development and Housing Approvals, and where necessary, implemented prior to any grading, servicing, tree removal or the issuance of building permits. 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. If necessary, the plan shall include required mitigation and or compensation measures.**

b) The owner further agrees to implement the approved plan. No changes to the said plan shall be granted except with the prior approval of the City's Director of Development and Housing Approvals.

8. That the owner shall:

a) complete a Building Code Assessment for the existing dwelling proposed to be retained on the Retained Lot, prepared by a qualified person, to confirm that the proposed property line and any of the building adjacent to this new property line complies with the Ontario Building Code, to the satisfaction of the City's Chief Building Official. The assessment shall address items such as, but not limited to, spatial separation of existing buildings' wall face, and shall include recommendations such as closing in of openings pending spatial separation calculation results.

b) A Building Permit shall be obtained for any remedial work/ upgrades required by the Building Code Assessment.

9. That the Owner shall provide a servicing plan showing outlets to the municipal servicing system, to the satisfaction of the Director of Engineering Services.

10. That the Owner shall 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.

11. That the Owner shall make financial arrangements for the installation of any new service connections to the Severed Lot and the Retained Lot, to the satisfaction of the City's Director of Engineering Services. This may involve the extension of municipal services to the Severed Lot and the Retained Lot. It may also include 'alternate sanitary servicing solutions', in accordance with City of Kitchener Official Plan Section 14.C.1.19. a) and Regional Official Plan Section 2.J.8 to the satisfaction of the Region of Waterloo and any applicable Provincial Agency/Body.

12. 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.

13. That the Owner shall provide 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.

14. That the owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication of \$11,862.00.

15. That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00.
16. That prior to final approval, the owner/applicant enter into a development agreement, registered on title, with the Region of Waterloo to include the following noise mitigation and warning clauses in all Offers of Purchase and Sale, lease/rental agreements for the severed lands:
 - i) That all dwelling unit(s) on the severed lands be installed with an air-ducted heating and ventilation system suitably sized and designed with the provision for central air conditioning.
 - ii) *“Purchasers/tenants are advised that despite the inclusion of noise attenuation control features in the development and within the building units, sound levels due to increasing road traffic on King Street East (RR #8) may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP).”*
 - iii) *“This unit has been designed with the provision of adding a central air conditioning system 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 & Parks (MECP).”*
 - iv) *“Purchasers/tenants are advised that the stationary noise levels from the existing commercial land uses in the vicinity may also at times be audible.”*
17. That prior to final approval, the owner/applicant enter into a development agreement, registered on title, with the Region of Waterloo to include the following noise mitigation and warning clauses in all Offers of Purchase and Sale, lease/rental agreements for the retained lands:
 - i) *“Purchasers/tenants are advised that sound levels due to increasing road traffic on King Street East (RR #8) may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP).”*
 - ii) *“Purchasers/tenants are advised that the stationary noise levels from the existing commercial land uses in the vicinity may also at times be audible.”*

REPORT HIGHLIGHTS:

- The purpose of this report is to recommend approval of the proposed Consent Application to permit the creation of a new lot, and to recommend approval of the associated Minor Variance Applications, to recognize the dwelling on the Retained Lot and to facilitate redevelopment of the Severed Lot with a future Detached Dwelling.
- 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.



Figure 1: Photo of existing dwelling on Retained Lot, taken from Edgehill Drive.



Figure 2: Photo of existing driveway on Retained Lot, taken from Edgehill Drive.

BACKGROUND:

The subject property is located on the northeast side of Edgehill Drive in the Pioneer Tower West Planning Community. The west side of the property is currently developed with a Single Detached Dwelling that was constructed in approximately 2016. The east side of the property is landscaped and does not contain any buildings.

The subject property is located at the intersection of Edgehill Drive and Helen Avenue, is close to King Street East, and abuts commercial properties (to the north) that are zoned Arterial Commercial (COM-3), including the Embassy Motel. Properties along Edgehill Drive to the east, west and south are developed with Single Detached Dwellings of various construction dates, architectural styles, and lot sizes and shapes. All dwellings along this section of Edgehill Drive, including the Single Detached Dwelling on the subject property, are not connected to municipal water and sanitary services, though they do have access to municipal storm sewers. Rather, these properties are on private water and sanitary services.

The subject property has approximately 89.4 metres of frontage on Edgehill Drive and is approximately 2,994.6 square metres in area (0.74 acres). 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 property is zoned 'Low Rise Residential One Zone (RES-1)' with Site Specific Provision (272) in Zoning By-law 2019-051. It should be clarified that Site Specific Provision (272) applies to significant portions of the Pioneer Tower West Planning Community.

The applicant is requesting Consent to create a new lot by severing the existing lot into two parcels. The Severed Lot would have an approximate frontage of 35.4 metres on Edgehill Drive, a depth of 45.4 metres, and an area of 1,253.6 square metres (0.31 acres). The Retained Lot would have an approximate frontage of 54.1 metres on Edgehill Drive, a depth ranging between 17.4 metres and 48.2 metres, and an area of 1,741.0 square metres.

The applicant proposes to retain the existing Single Detached Dwelling on the Retained Lot and allow for the future construction of a Detached Dwelling on the Severed Lot. The applicant is proposing to extend water services from the intersection of Limerick Drive / Edgehill Drive to the Severed Lot (approximately 100 metres) and to provide private sanitary services. The Retained Lot would continue on private water and private sanitary services. Notwithstanding, per Policy 14.C.1.13 of the Official Plan, the applicant is *encouraged* to instead connect the Retained Lot to the municipal water service which would be extended to service the Severed Lot.

To facilitate the requested Consent, the applicant is requesting approval of a Minor Variance Application for each resultant lot, as follows (the Severed and Retained lots comply with zoning regulations, except for the following):

1. Minor Variance Application A2023-135 (Retained Lot):
 - a. Requesting a lot area of 1,741.0 square metres, whereas Site Specific Provision (272) requires a minimum lot area of 2,023 square metres; and
 - b. Requesting a driveway width of 16.5 metres for an existing driveway, whereas Section 5.4f) requires a maximum width of 8.0 metres.
2. Minor Variance Application A2023-136 (Severed Lot): Requesting a lot area of 1,253.6 square metres, whereas Site Specific Provision (272) requires a minimum lot area of 2,023 square metres.

It should be noted that the applicant's applications were originally heard at the November 21, 2023, Committee of Adjustment meeting and were deferred by the Committee to provide time for the Region of Waterloo to have the Scoped Stage 2 Hydrogeological Study for Septic System Servicing peer reviewed (this is a supporting study for the Consent application). For reference, see Report DSD-2023-498.



Figure 3: Subject Property (outlined in red).

REPORT:

Planning Comments regarding Minor Variance Applications A2023-135 (Retained Lot) and A2023-136 (Severed Lot):

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 variances for lot area reduction meet the general intent of the Official Plan for the following reasons. Despite Site Specific Provision (272), which requires a minimum lot area of 2,023 square metres, there is no corresponding Site/Area Specific Policy Area in the Official Plan.

Policy 15.D.3.8 of the Low Rise Residential land use designation policies states that, “The Low Rise Residential land use designation will accommodate a full range of low density housing types which may include single detached dwellings, additional dwelling units, attached and detached, semi-detached dwellings, street townhouse dwellings, townhouse dwellings in a cluster development, low-rise multiple dwellings, special needs housing, and other forms of low-rise housing.

Policy 3.C.2.52 of the Community Areas Urban Structure policies states that, Limited intensification may be permitted within Community Areas in accordance with the applicable land use designation on Map 3 and the Urban Design Policies in Section 11. The proposed development must be sensitive to and compatible with the character, form and planned function of the surrounding context.”

Planning staff is of the opinion that the proposed variances would facilitate development of a Detached Dwelling on the Severed Lot that is compatible with the character, form, and planned function of the surrounding context.

The variance requesting an increase to the maximum driveway width for the Retained Lot meets the general intent of the Official Plan for the following reasons. Policy 13.C.8.4. of the Official Plan states, “All parking areas or facilities will be designed, constructed and maintained:...f) to result in aesthetically acceptable parking areas which blend into the general environment of the area.”

In this regard, the existing driveway is constructed of textured concrete and has a border of a different colour. The driveway curves from the road to the garage and is framed by well-planned landscaping on both sides. This variance would meet the general intent of the Official Plan.

General Intent of the Zoning By-law

Planning staff is satisfied that the variances for lot area reduction maintain the general intent of the Zoning By-law for the following reasons.

The property is zoned ‘RES-1 with Site Specific Provision (272)’ within By-law 2019-051. Site Specific Provision (272) represents a direct carry-over of Special Regulation Provision 233R from By-law 85-1. This provision was originally established through the comprehensive rezoning of Pioneer Tower West in 1996.

The provision requires a minimum lot area of 2,023 square metres, whereas the Severed Lot has an area of 1,253.6 square metres and the Retained Lot has an area of 1,741.0 square metres. It should also be noted that this provision requires a minimum lot width of 30 metres and a minimum front yard setback and exterior side yard setback shall be 7.62 metres. In this case, the Severed Lot and Retained Lot comply with these latter requirements.

Planning staff speculates that the purpose of this provision was likely to preserve a perceived character within this portion of Pioneer Tower West and to ensure sufficient lot area for the provision of private septic systems.

The RES-1 base zone was established with the purpose of accommodating limited dwelling types in areas with an estate character and/or limited municipal services in low rise areas. The RES-1 Zone requires a minimum lot area of 929 square metres and a minimum lot area of 24.0 metres. This is zone accommodates the largest, low rise residential “estate” lots in the city, many of which are on private services. Obviously, the minimum lot and area requirements of the RES-1 Zone are sufficient to support estate homes on private services. The Severed Lot and Retained Lot significantly exceed these requirements.

Regarding the issue of character, despite Site Specific Provision (272), which requires a minimum lot area of 2,023 square metres and a minimum lot width of 30 metres and which applies broadly in this portion of the Pioneer Tower West Planning Community, there are many lots in the immediate area that have a significantly smaller lot areas and lot widths. In fact, there are numerous properties located less than 200 metres from the subject property that have lot areas and lot frontages (lot frontage is similar to, but not the same as, lot width) that are less than the Severed Lot, which has a lot area of 1,253.6 square metres and an approximate frontage of 35.4 metres, for example:

	Approximate Lot Area (square metres)	Approximate Frontage (metres)
19 Edgehill Drive	1,043.9	22.8
25 Edgehill Drive	1,044.0	22.8
122 Edgehill Drive	1,208.5	30.4
20 Stanson Close	1,140.0	29.7 (cord)
5 Edgehill Drive	1,136.3	24.3
7 Limerick Drive	1,041.6	22.8
31 Limerick Drive	1,083.2	22.8
35 Limerick Drive	1,208.9	22.8
8 Helen Avenue	1,082.0	22.8

Table 1: Properties in the immediate area that have lot areas and frontages that are less than the Severed and Retained lots.



Figure 4: Plan showing the Severed Lot (red), Retained Lot (green), and existing lots in the immediate area that have smaller lot areas and lot frontages than the Severed Lot (purple).

It should also be noted that several additional lots within in the immediate area have lot areas and lot widths that are greater than the above examples but are less than the Retained Lot (1,741.0 square metres and 54.1 metres, respectively).

The variance requesting an increase to the maximum driveway width for the Retained Lot meets the general intent of the Official Plan for the following reasons. Based on a review of historical aerial photography, it appears that the existing driveway has maintained its approximate dimensions and shape for at least 23 years, possibly longer. The existing driveway pre-exists many of the dwellings in the area. Also, the curvature of the driveway, high quality driveway materials / textures / colours, driveway bordering, and well-designed adjacent landscaping assist in softening view of the driveway from the public realm.

Are the Effects of the Variances Minor?

Planning staff is of the opinion that the variances for lot area reduction are minor in that they are not anticipated to cause unacceptably adverse impacts on adjacent properties. The proposed Severed and Retained lots have a greater lot area and lot width than many of the lots in the immediate area that are fully on private services. The proposed lots have a character that is consistent with the neighbourhood.

The variance requesting an increase to the maximum driveway width for the Retained Lot is minor. The driveway has existed for many years without issue. Also, the driveway does not negatively impact the streetscape.

Are the Variances Desirable For The Appropriate Development or Use of the Land, Building and/or Structure?

Planning staff is of the opinion that all requested variances are desirable for the appropriate development of the lands. The variances would facilitate gentle intensification on Edgehill Drive, while maintaining the character of the neighbourhood. The variances will also facilitate the extension of municipal water services along Edgehill Drive, which will provide the opportunity for other dwellings to connect to this service.

Planning Comments regarding Consent Application B2023-042:

In considering 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 the requested consent will facilitate gentle intensification of the subject property with the creation of a new lot and will facilitate the extension of municipal water services to an area of the city that currently does not have this service, thereby potentially benefitting other existing properties along the route of the service extension. 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 located within the City's Built-Up Area, as noted on Map 1 – City Urban Area and Countryside of the Official Plan. The proposed development represents gentle intensification and will contribute towards achieving the City's intensification goals for the Built-Up Area. The severance application will help make efficient use of existing roads, parks, and nearby transit (including the nearby iXpress route). 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. 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. The Region has indicated that they have no objections to the proposed consent, subject to the conditions outlined in the Recommendation section of this report (e.g., noise mitigation and warning clauses and consent review fee). Planning staff is of the opinion that the consent application conforms to the Regional Official Plan.

Regarding servicing, Policy 2.J.8 of the Regional Official Plan permits residential infill development on individual on-site water and individual on-site sewage services, subject to the following:

- a) it is demonstrated to the satisfaction of the Region that the extension of servicing from a municipal water and/or wastewater system is not feasible;
- b) the site is not located within Wellhead Sensitivity Area 1, a High Microbial Risk Management Zone, or a Surface Water Intake Protection Zone 1 described in Chapter 8;
- c) studies prepared in accordance with the Regional Implementation Guidelines for Source Water Protection Studies and accepted by the Region, demonstrate that such services can operate satisfactorily on the site and will not have a negative impact on groundwater resources;
- d) it is demonstrated to the satisfaction of the area municipality's Chief Building Official that the site conditions are suitable for the long-term provision of such services with have no adverse effects; and
- e) the development application complies with Policies 5.B.8 and 5.C.6 as applicable.

The owner/applicant submitted to the Region a Scoped Hydrogeological Study authored by Englobe in support of the proposed application. Regional Staff advise that they have completed a peer review of the study (September 2023) and subsequent revision (December 2023). The Region's peer review consultant provided sign off on the Scoped Hydrogeological Study on December 20, 2023. Regional staff confirm the study is satisfactory in accordance with the policies of the Regional Official Plan (ROP).

Regional staff notes that the property does not currently have municipal water or sanitary services. The Region understands that it is not feasible for the City, or the owner/applicant at their expense, to extend municipal sanitary services to the proposed retained or severed lot. The subject application proposes private services within the Urban Area.

City's Official Plan (2014)

There are many Official Plan policies that apply to the subject proposal. 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 Community Areas section of the Official Plan contains the following policy:

- 3.C.2.52. Limited intensification may be permitted within Community Areas in accordance with the applicable land use designation on Map 3 and the Urban Design Policies in Section 11. The proposed development must be sensitive to and compatible with the character, form and planned function of the surrounding context.

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.

Section 4 of the Official Plan outlines the City's Housing policies. Several Housing policies are applicable to the proposal, such as:

- 4.C.1.8. Where a special zoning regulation(s) or minor variance(s) is/are requested, proposed or required to facilitate residential intensification or a redevelopment of lands, the overall impact of the special zoning regulation(s)

or minor variance(s) will be reviewed, but not limited to the following to ensure, that:

- a) Any new buildings and any additions and/or modifications to existing buildings are appropriate in massing and scale and are compatible with the built form and the community character of the established neighbourhood...

4.C.1.9. Residential intensification and/or redevelopment within existing neighbourhoods will be designed to respect existing character. A high degree of sensitivity to surrounding context is important in considering compatibility.

Moreover, Section 15.D.3 of the Official Plan outlines the City's Residential policies. Several Low Rise Residential policies are applicable to the proposal, such as:

15.D.3.8. The Low Rise Residential land use designation will accommodate a full range of low density housing types which may include single detached dwellings, additional dwelling units, attached and detached, semi-detached dwellings, street townhouse dwellings, townhouse dwellings in a cluster development, low-rise multiple dwellings, special needs housing, and other forms of low-rise housing.

15.D.3.9. The City will encourage and support the mixing and integrating of innovative and different forms of housing to achieve and maintain a low-rise built form.

Regarding servicing, the City Official Plan contains many applicable policies, for example (*emphasis added*):

17.E.20.5. Applications for consent to create new lots will only be granted where:...e) municipal water services are available; f) municipal sanitary services are available except in accordance with Policy 14.C.1.19;

14.C.1.19. Unless otherwise provided for in this Plan, all development, including lot creation, will be on full municipal sanitary services, with the exception of the following: a) Development will be permitted on individual on-site sewage services when associated with severances and existing lots in agricultural areas and infilling situations in existing unserviced developed areas where other forms of servicing are not feasible, provided it can be demonstrated to the satisfaction of the Province or the Region that the individual on-site sewage services will not result in an unacceptable level of environmental impact.

14.C.1.15. Unless otherwise provided for in this Plan, all development, including lot creation, will be on municipal water services.

With respect to the Official Plan, Planning staff is of the opinion that the Severed and Retained lots reflect the general scale and character of the established development pattern of surrounding lands as noted above (see Table 1 and Figure 4, above). There are

many lots in the immediate area that have lot widths and lot frontages that are considerably less than the Severed and Retained lots. The proposal represents development that is sensitive to and compatible with the character, form and planned function of the surrounding context. Also, the Severed Lot is sized such that a Detached Dwelling could be constructed in the future that is of a similar character, scale and massing to existing dwellings in the immediate area.

In addition, supportable variances have been provided to remedy minor zoning deficiencies. The proposed lots have frontage on an established public street and municipal water services will be made available, via conditions, to the Severed Lot. Per Policy 14.C.1.19, municipal sanitary services are not required in this situation, since the proposal represents an infilling situation and the subject lands are within an existing underserved area where municipal sewers are not feasible and the Region has advised that a private septic system is acceptable.

Zoning By-law 2019-051

As aforementioned, the subject property is zoned 'Low Rise Residential One Zone (RES-1)' with Site Specific Provision (272) in Zoning By-law 2019-051. Variances have been requested for both the Retained Lot (A2023-135) and the Severed Lot (A2023-136). See above Minor Variance comments for more details.

Supporting Materials

To support the applications, the applicant has submitted the following plans / studies / reports:

- Arborist Report, prepared by Pinnacle Tree & Shrub Care, dated April 20, 2023;
- Scoped Stage 2 Hydrogeological Study for Septic System Servicing, prepared by Englobe Corp., dated September 25, 2023;
- Revision 1 of the Scoped Stage 2 Hydrogeological Study and Comment Disposition Table, dated December 14, 2023;
- Planning Justification Letter (author and date not provided); and
- Sketch for Severance Application, prepared by Guenther Rueb Surveying Ltd.

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 Severed and Retained lots are desirable and appropriate. The lots reflect the general scale and character of the established development pattern of surrounding lands and Minor Variances have been requested to resolve minor zoning deficiencies. Servicing to the Severed Lot will be undertaken in accordance with the Official Plan. The Severed and Retained lots have frontage on an established public street. Planning staff is further of the opinion that the proposal is consistent with the Provincial Policy Statement, and the Region of Waterloo Official Plan, conforms to the Growth Plan for the Greater Golden Horseshoe, and represents good planning.

Environmental Planning Comments:

Consent Application B2023-042:

Standard condition for consent to enter into an agreement to complete a Tree Preservation/Enhancement Plan prior to Demo/Building Permit /grading/servicing etc. on BOTH severed AND retained parcels.

Minor Variance Application A2023-135 (Retained Lot):

Environmental Planning has no comments.

Minor Variance Application A2023-136 (Severed Lot):

Environmental Planning has no comments.

Heritage Planning Comments:

Heritage Planning has no concerns regarding any of the subject applications.

Building Division Comments:

Consent Application B2023-042:

The Building Division has no objections to the proposed consent provided:

1. A qualified designer is retained to complete a building code assessment as it relates to the new proposed property line and any of the building adjacent to this new property line shall address such items as spatial separation of existing buildings' wall face to the satisfaction of the Chief Building Official. Closing in of openings may be required, pending spatial separation calculation results.
2. A building permit shall be obtained for any remedial work/ upgrades that may be required by the building code assessment.

Minor Variance Application A2023-135 (Retained Lot):

The Building Division has no objections to the proposed variances.

Minor Variance Application A2023-136 (Severed Lot):

The Building Division has no objections to the proposed variance provided building permit for the new residential dwelling. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

Consent Application B2023-042:

- Severance of any blocks within the subject lands will require a municipal water connection and an acceptable sanitary and storm outlet, in accordance with Region of Waterloo and City of Kitchener approved policies (see applicable references below). Our records indicate only municipal storm infrastructure is currently available to service this property. 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.

Reference - City of Kitchener Official Plan approved by the Region of Waterloo, November 19, 2014

Section 17.E.20.5. Applications for consent to create new lots will only be granted where:

e) municipal water services are available;

f) municipal sanitary services are available except in accordance with Policy 14.C.1.19;

Section 14.C.1.15. Unless otherwise provided for in this Plan, all development, including lot creation, will be on municipal water services.

Section 14.C.1.19. Unless otherwise provided for in this Plan, all development, including lot creation, will be on full municipal sanitary services, with the exception of the following:

a) Development will be permitted on individual on-site sewage services when associated with severances and existing lots in agricultural areas and infilling situations in existing unserviced developed areas where other forms of servicing are not feasible, provided it can be demonstrated to the satisfaction of the Province or the Region that the individual on-site sewage services will not result in an unacceptable level of environmental impact.

Reference - Region of Waterloo, Regional Official Plan August 18, 2022

Section 2.J.8. Notwithstanding any policies of this Plan, development applications proposing residential infill development may be permitted on partial services, individual on-site water services, and/or individual on-site sewage services, subject to the following:

(a) it is demonstrated to the satisfaction of the Region that the extension of servicing from a municipal water and/or wastewater system is not feasible;

(b) the site is not located within Wellhead Sensitivity Area 1, a High Microbial Risk Management Zone, or a Surface Water Intake Protection Zone 1 described in Chapter 8;

(c) studies prepared in accordance with the Regional Implementation Guidelines for Source Water Protection Studies and accepted by the Region, demonstrate that such services can operate satisfactorily on the site and will not have a negative impact on groundwater resources;

(d) it is demonstrated to the satisfaction of the area municipality's Chief Building Official that the site conditions are suitable for the long-term provision of such services with have no adverse effects; and

(e) the development application complies with Policies 5.B.8 and 5.C.6 as applicable.

- As municipal sanitary infrastructure is not currently available to the property, the owner would be required to design to current City of Kitchener standards, and make satisfactory financial arrangements for, the installation of an extension to the municipal sanitary sewer, including obtaining the necessary Environmental Compliance Approval, to the satisfaction of the Engineering Division, all prior to severance approval. Any further enquiries in this regard should be directed to Christine Goulet (christine.goulet@kitchener.ca). Alternate sanitary servicing solutions, in accordance with City of Kitchener Official Plan *Section 14.C.1.19. a)* and Regional Official Plan *Section 2.J.8.* would be considered acceptable. For alternate solutions, proof of Regional/Provincial satisfaction would be required prior to severance approval.
- As municipal water infrastructure is not currently available to the property, the owner would be required to design to current City of Kitchener standards, and make satisfactory financial arrangements for, the installation of an extension to the municipal watermain, to service the severed property, including obtaining a Form 1, to the satisfaction of the Engineering Division, all prior to severance approval. Any further enquiries in this regard should be directed to Christine Goulet (christine.goulet@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 municipal/site infrastructure with corresponding layer names and asset information to the satisfaction of the Engineering Division prior to severance approval.
- The owner must ensure that the basement elevation of the building can be drained by gravity to the street sewers. If this is not the case, then the owner would have to pump the sewage via a pump and forcemain to the property line and have a gravity sewer from the property line to the street.

Minor Variance Application A2023-135 (Retained Lot):

Engineering Services has no comments.

Minor Variance Application A2023-136 (Severed Lot):

Engineering Services has no comments.

Parks & Cemeteries / Operations Division Comments:

Consent Application B2023-042:

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 and at a land value of \$36,080 per frontage meter with a per unit cap of \$11,862.

The submitted Tree Management Plan appears to locate the existing trees primarily within the proposed lot's property limits rather than within the municipal right of way. Parks and Cemeteries required no further submissions, documentation or compensation regarding existing trees.

Minor Variance Application A2023-135 (Retained Lot):

Parks & Cemeteries has no concerns and no comments.

Minor Variance Application A2023-136 (Severed Lot):

Parks & Cemeteries has no concerns and no comments.

Transportation Planning Comments:

All applications: Transportation Services does not have any concerns with the proposed application.

Region of Waterloo Comments:

Consent Application B2023-042:

The applicant is proposing to sever a new residential lot with frontage on Edgehill Drive.

Regional Fee:

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

Environmental Noise:

Regional staff note that the proposed severed and retained lots are in close proximity (approximately 95 metres) to King Street East (Regional Road No. 8). Although there are some existing intervening land uses between the proposed dwellings and the transportation noise sources, the proposed dwellings on the retained and severed lots will likely have impacts from transportation and stationary noise sources. It is the responsibility of the applicant to ensure the proposed development is not adversely affected by anticipated transportation (traffic) and stationary (commercial) noise impacts. ROP Policy 2.G.13 indicates that a noise study may be required for a development application for a sensitive land use submitted in the vicinity of an Existing or Planned Regional Road, Provincial Highway, the rapid transit system, transit terminals, railways or Area Municipal roads.

In lieu of requiring a detailed transportation and stationary noise study, and because the primary transportation noise source is a Regional Road, Regional staff require as a condition of the consent that the owner/applicant of the units on all (retained and severed) lots will be required to enter into a registered agreement with the Region of Waterloo to include noise mitigation and warning clauses in all Offers of Purchase and Sale, lease/rental agreements.

For the severed lot, the owner is to agree that all dwelling unit(s) must be installed with an air-ducted heating and ventilation system suitably sized and designed with the provision of adding central air conditioning prior to occupancy. In addition, the following noise warning clauses will be included in all offers of purchase and sale, deeds and lease/rental agreements:

- a) *“Purchasers/tenants are advised that despite the inclusion of noise attenuation control features in the development and within the building units, sound levels due to increasing road traffic on King Street East (RR #8) may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP).”*
- b) *“This unit has been designed with the provision of adding a central air conditioning system 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 & Parks (MECP).”*
- c) *“Purchasers/tenants are advised that the stationary noise levels from the existing commercial land uses in the vicinity may also at times be audible.”*

For the retained lot, the following noise warning clauses will be included in all offers of purchase and sale, deeds and lease/rental agreements:

- a) *“Purchasers/tenants are advised that sound levels due to increasing road traffic on King Street East (RR #8) may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP).”*
- b) *“Purchasers/tenants are advised that the stationary noise levels from the existing commercial land uses in the vicinity may also at times be audible.”*

Water and Wastewater Services:

Regional Staff note that the property does not currently have municipal water or sanitary services. City Staff have previously indicated that it is not feasible for the City, or the owner/applicant at their expense, to extend municipal sanitary services to the proposed retained or severed lot. The subject application proposes private services within the urban area.

Policy 2.J.8 of the Regional Official Plan permits residential infill development on individual on-site water and individual on-site sewage services, subject to the following:

- a) it is demonstrated to the satisfaction of the Region that the extension of servicing from a municipal water and/or wastewater system is not feasible;
- b) the site is not located within Wellhead Sensitivity Area 1, a High Microbial Risk Management Zone, or a Surface Water Intake Protection Zone 1 described in Chapter 8;
- c) studies prepared in accordance with the Regional Implementation Guidelines for Source Water Protection Studies and accepted by the Region, demonstrate that such services can operate satisfactorily on the site and will not have a negative impact on groundwater resources;
- d) it is demonstrated to the satisfaction of the area municipality's Chief Building Official that the site conditions are suitable for the long-term provision of such services with have no adverse effects; and
- e) the development application complies with Policies 5.B.8 and 5.C.6 as applicable.

The owner/applicant submitted a Scoped Hydrogeological Study authored by Englobe in support of the proposed application. Regional Staff have completed a peer review of the study (September 2023) and subsequent revision (December 2023). The Region's peer review consultant provided sign off on the Scoped Hydrogeological Study on December 20, 2023. The peer review comments are attached.

Regional Staff confirm the study is satisfactory in accordance with the policies of the Regional Official Plan (ROP). Regional Staff have no further concerns on this item.

Well and Septic Decommissioning:

Regional Staff note that should municipal water and/or septic services be provided and connected to the proposed severed and retained lots, any private well and/or septic system on the proposed retained lands will have to be decommissioned in accordance with Regulation 903 of the Ontario Water Resources Act, Ontario Building Code and all other applicable regulation.

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

- A. That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00.
- B. That prior to final approval, the owner/applicant enter into a development agreement, registered on title, with the Region of Waterloo to include the following noise mitigation and warning clauses in all Offers of Purchase and Sale, lease/rental agreements for the severed lands:
 - i) That all dwelling unit(s) on the severed lands be installed with an air-ducted heating and ventilation system suitably sized and designed with the provision for central air conditioning.

ii) *“Purchasers/tenants are advised that despite the inclusion of noise attenuation control features in the development and within the building units, sound levels due to increasing road traffic on King Street East (RR #8) may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP).”*

iii) *“This unit has been designed with the provision of adding a central air conditioning system 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 & Parks (MECP).”*

iv) *“Purchasers/tenants are advised that the stationary noise levels from the existing commercial land uses in the vicinity may also at times be audible.”*

C. That prior to final approval, the owner/applicant enter into a development agreement, registered on title, with the Region of Waterloo to include the following noise mitigation and warning clauses in all Offers of Purchase and Sale, lease/rental agreements for the retained lands:

i) *“Purchasers/tenants are advised that sound levels due to increasing road traffic on King Street East (RR #8) may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP).”*

ii) *“Purchasers/tenants are advised that the stationary noise levels from the existing commercial land uses in the vicinity may also at times be audible.”*

Our ref: 12602656-LTR-4

28 November 2023

Mr. Matthew Colley, MCIP, RPP
Senior Planner
Planning, Development and Legislative Services
Regional Municipality of Waterloo
150 Frederick St.
Kitchener, ON N2G 4J3

Peer Review – 52 Edgehill Drive, Kitchener, Hydrogeological Study (Englobe Ref No.: 02200643.000)

Dear Mr. Colley,

1. Introduction

GHD Limited (GHD) has prepared this letter to summarize our peer review of the Hydrogeological Study (the Study) to support severance of a lot located at 52 Edgehill Drive, in Kitchener, Ontario (Site). The Study was completed by Englobe Corp. (Englobe) for Mr. James Mellish and is dated September 25, 2023 (Englobe Ref No. 00220643.000).

As requested, GHD has prepared this letter to provide the Regional Municipality of Waterloo (Region) with an opinion concerning the adequacy of the Study in relation to the Region's *Hydrogeological Assessment Guidelines for Privately-Serviced Developments – Scoped Stage 2 Studies – Revised November 25, 2020* (Region's Guideline). The letter also provides an opinion of the suitability of the interpretations and conclusions provided within the Study.

2. Opinion of Adequacy

Based on the description included in Section 2 (Methodology), Englobe's scope of work included advancing three test pits, collecting soil samples for laboratory analysis of grain size, completing an in-situ percolation test and collecting one groundwater sample from a previously installed well.

In general, the Study provides relevant details and discussion to support the severance; however, GHD notes the following deficiencies when comparing the Study to the Region's Guideline.

- a. The Study does not comment on the reason why a private septic service is the only practical option.
- b. The Study does not comment on the Site's proximity to GUDI wells or positioning relative to the 10-year travel time to Municipal supply wells. The Site does not appear to be within either; however, the Study should be updated to explicitly state this.

- c. Section 3.5 states that “Englobe collected a groundwater sample from the existing on-Site on 29th, 2023.” It is assumed that this sentence is missing reference to the well where the sample was collected, and the month of collection. In Section 2, Methodology, the Study states that the scope of work included “collecting one groundwater sample from a previously installed monitoring well.” Section 2.5 states that a sample of untreated well water was collected from a faucet within the basement of the residential dwelling. Based on this conflicting information it is not clear where the groundwater sample was obtained from. This detail should be clarified. If the on-Site potable water supply well was used to determine background nitrate and nitrite concentrations, then the suitability of these results is questionable considering the proposed private septic system is presumed to be discharging to a shallow water table flow zone within the overburden.
- d. Section 2.5 does not include a water well record number or description of the residential supply well. GHD agrees that the local supply aquifer is within bedrock; however, this section would benefit by including a description of the well sampled.
- e. The Study notes that groundwater was not encountered in the test pits excavated, however the Test Pit Stratigraphy Log for TP2-23 indicates “saturated at the bottom”. This note suggests groundwater was encountered at 3.0 metres below ground surface (mBGS) at TP2-23. This observation is relevant to the Study as the Region’s Guideline specifies “determination of shallow on-site groundwater levels and groundwater flow direction”. It is unlikely that the Study could determine shallow groundwater flow direction without additional investigation. Notwithstanding, it is likely that the shallow groundwater flow is directed towards the Grand River.
- f. Though not explicitly required by the Region’s Guideline, a map illustrating the locations of private water supply wells identified in Table 3.1 and in the private well survey attachments would support the statement that the wells are located in close proximity to the Site.
- g. The Study does not include an analysis of nitrate impacts on the shallow groundwater due to the proposed on-Site sewage system.

3. Opinion of Suitability

GHD generally concurs with Englobe’s discussion of the geology and hydrogeologic setting of the Site; however, an assessment of potential nitrate impacts resulting from the proposed on-Site septic system in accordance with Condition 3 of the MOEE *Procedure D-5-4 technical guideline for Individual On-Site Sewage Systems: Water Quality Impact Risk Assessment* should be included. The presence of a substantial thickness of fine-grained soils between the receiving groundwater and the deeper aquifer used for private water supply may be sufficient evidence of hydraulic isolation of sewage effluent from water supplies. If deemed sufficient, this should be explicitly described in the Study in accordance with *Procedure D-5-4*.

The use of a groundwater sample from the deeper flow zone in which the private water supply well is completed is not suitable for characterizing background nitrate concentrations in the receiving groundwater. Depending on the results of the *Procedure D-5-4* assessment, characterization of the background shallow groundwater quality may be appropriate.

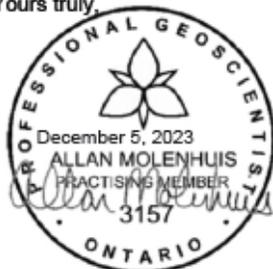
Notwithstanding the above, the shallow soils and hydrogeologic setting at the Site are not inherently unsuitable for the proposed private on-Site septic system.

4. Conclusion

As documented above, there are deficiencies in the scope of the Study as it relates to the Region’s Guideline. Notwithstanding, there is substantial physical evidence that the Site is likely suitable for servicing with an appropriately designed private sewage disposal system.

Should you have any questions on the above, please do not hesitate to contact us.

Yours truly,



Allan Molenhuis, P. Geo.
Project Manager/Hydrogeologist

519-340-3872
Allan.Molenhuis@ghd.com

BK/kt/4



Ben Kempel, P. Geo.
Project Director/Senior Hydrogeologist

+1 519 340-4119
Ben.Kempel@ghd.com

Minor Variance Application A2023-135 (Retained Lot):

The Region has no concerns.

Minor Variance Application A2023-136 (Severed Lot):

The Region has no concerns.

Grand River Conservation Authority Comments:

No objections to any of the subject applications.

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*
- *Report DSD-2023-498*

ATTACHMENTS:

Attachment A - Sketch for Severance Application, prepared by Guenther Rueb Surveying Ltd.

