

Eric Schneider

From: Meghan M. Miller
Sent: Monday, September 20, 2021 5:10 PM
To: Eric Schneider; Margaret Johnston
Subject: [EXTERNAL] Need for increased recreation space

Thank you for notifying us of the proposed development at 400 Westwood Drive. I appreciate having the opportunity to comment and provide feedback.

There have been 2 other developments completed recently on Westwood Drive. My concern with each continues to be the lack of playground space in our neighbourhood. There have been no upgrades or expansions to Westwood Park through any of these developments, in fact we have lost access to the basketball courts that used to be part of the old Catholic school. So we have increased the density of our neighbourhood and reduced the playspace for the last 2 developments. This trend needs to change.

I've also recently learned that there are plans to remove the swings from the park in the name of "upgrades". All of this has been frustrating to see and I would like to see planning take into consideration the recreational needs of the community they are planning for. https://www.engagewr.ca/westwoodpark?tool=survey_tool#tool_tab

I would like to see the existing playground equipment expanded to include opportunities for older kids to play as well. I think that it's important to invest in this infrastructure before approving yet more development. There is underutilized forest space on the north side of Westwood Drive that could be used as a naturalized play space, or there is plenty of space on the south side of Westwood Drive if planners wanted to keep the infrastructure together.

Please let me know what your plan is for increasing the access to playground equipment on Westwood Drive. This should be included within the scope of the project, the same as supply water, waste water, and site drainage are considered before approving a development. A variance to zoning should not be approved unless it is in the best interest of the community.

Kind Regards,
Meghan Miller

Eric Schneider

From: Jonathan Cook
Sent: Monday, September 20, 2021 8:54 PM
To: Eric Schneider; Margaret Johnston
Subject: [EXTERNAL] 400 Westwood Drive - Proposed 4 lots

Hello All,

I recieved a card in the mail regarding the application for development of 400 Westwood Drive.

As a 20+ year resident of Dayman Court, I object to this proposal for a number of reasons, which I think will be a common complaint.

We purchased our home on Dayman Court as the local neighbourhood was quiet and child friendly at the time. This has been eroding in the last few years due to the increased densification along Westwood.

We have noticed a drastic increase in traffic on Westwood Drive already due to the large 3 level condo development just down the street from this proposed development, but also from the development of the former Monsignor Gleeson school down the hill of Westwood Drive at Knell st.

The last thing we need is more vehicle traffic.

We also object due to the visual impact of the streets cape as we have admired the trees and bushes along the street which add greens are to an otherwise boring street.

This development would result in these large mature trees being cut down and cleared out.

Increased curbside parking would continue to drive more parking onto our street as has been happening already, as changing 400 Westwood drive would reduce available curbside parking for this part of the street, which is already now congested with the overflow out of the condo development that was built just across the street.

We already are having problems with homes having too many cars to parking available in their own driveways or parking lots.

This section of the street is already hazardous at times due to vehicle traffic coming and going from condos and townhouses, and adding more simply compounds this problem, especially so close to the corner intersection to Glasglow.

Beside all this, these shotgun shoebox style homes do nothing for the appearance of the street or neighbourhood, but simply line the pockets of greedy developers who wouldn't consider doing this in their own neighborhood.

Jonathan Cook

Sent from my Samsung Galaxy S8+ smartphone.

Eric Schneider

From: Jesse Wilson
Sent: Wednesday, September 22, 2021 8:11 AM
To: Eric Schneider
Subject: [EXTERNAL] 400 Westwood Drive

Hey Eric,

I live at _____, just a few houses away from this proposed development. I think it's great and look forward to more density in my neighbourhood. We have lots of access to services here so it's a great place to build.

If you need neighbourhood advocates for this plan or anything please let me know!

– Jesse Wilson

Eric Schneider

From:
Sent: Wednesday, September 22, 2021 9:03 AM
To: Eric Schneider;
Subject: [EXTERNAL] Re: 400 Westwood application for development

Thank you for the notice about an application for development at 400 Westwood Drive.

I was involved in the 1978 negotiated subdivision plan for the whole property at Westwood Drive and Glasgow Street. The plan for subdivision to a total of 5 properties was agreed to and supported by the neighbourhood at both Planning and Kitchener Council. The severances to the 5 *existing* properties was done in 2 stages, with the current plans being for further subdivision on the property which contains the original home.

May we please talk by telephone to clarify some details about the circulated application plans.

Thank you.

Judy-Anne Chapman

Eric Schneider

From: Sylvia Cook <
Sent: Wednesday, September 22, 2021 3:15 PM
To: Eric Schneider; Margaret Johnston
Subject: [EXTERNAL] 400 Westwood Drive application for development

Hello,

I am a long-term resident in the area (Dayman Court) around 400 Westwood Drive and received the notice about the application for development. I would like to express my concerns about this development.

1. The area is a forested area which is a well-established forest with large mature trees, which would take years/decades to replace should they get cut down. I know it is not the whole forest in question, but is still a part of the forest and is home to wildlife. We have seen a good variety of wildlife and do not want to see them get displaced.
- 2.
3. Over the 20+ years, I have lived in this area, I have seen an increase in traffic, and most definitely experiencing the impact of cars parked on the road. In the 20 years, we have had Huntington Place developed and now the 3 level stacked condos and the infilling of Monsieur Gleason school. All this has increased traffic and especially with the stacked condos, the parking on the street is getting out of control. The portion in question for development is right where all the parking issues start. Perhaps City Planning completely underestimated the number of vehicles that people park/own and visitor spots at the condos, and people are circumventing the limited parking by parking on the street and even in our court area.
- 4.
5. Watermains, and potentially other infrastructure, are already taxed and likely overdue for an overhaul. It is almost guaranteed a minimum of one water main failure on Westwood Drive every year. The stormwater drains struggle to collect water in heavy rainfall since the already new development has removed the natural water collection capabilities.

In summary, I am expressing my disagreement and opposition to this development, or any other future development in this area. Between the 3 areas of development I have mentioned above, I believe Westwood Drive is at its max capacity for residential development and no new development should take place.

Sylvia Cook

Eric Schneider

From: Venkat Ram
Sent: Monday, September 27, 2021 9:38 AM
To: Eric Schneider
Subject: [EXTERNAL] 400 Westwood drive proposed refining

Hi Eric,

Thanks for notifying us. I am the owner of _____ This street is already crowded with the additional townhomes across the street. What is the need to resolve e 400 and add additional housing?

What is the impact to house pricing due to this? What is the impact to the drainage systems and congestion in the already busy street.?

Thanks

Venkat Ramachandran
Mobile:
Sent from my iPhone

Sent from my iPhone

Eric Schneider

From: Kathie Stone-Mason
Sent: Thursday, September 30, 2021 10:15 AM
To: Eric Schneider
Cc: Margaret.Johnston.@kitchener.ca
Subject: [EXTERNAL] FW: 400 Westwood Drive proposed development CANNOT READ THE SMALL POSTCARD RECEIVED IN MY MAILBOX

Kathie Stone-Mason

Process Server



At Family and Children's Services Waterloo we are doing our part to reduce the spread of COVID-19 while still responding to concerns about families, children and youth. For this reason, staff are working from home, and checking email and voicemail throughout the day.

If you have concerns about a child, please call extension 2, and a child protection worker will take your call.

The information transmitted, including attachments, is intended only for the person(s) or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and destroy any copies of this information.

From: Kathie Stone-Mason <
Sent: September 30, 2021 10:06 AM
To: Eric.Sneider@kitchener.ca
Subject: 400 Westwood Drive proposed development CANNOT READ THE SMALL POSTCARD RECEIVED IN MY MAILBOX

Morning:

I would hope that the City of Kitchener spend our tax dollars more wisely and deliver a flyer or bigger drawing on the concept drawing. I cannot read/see the 2 upper right drawings on this small post card about the application for development at 400 Westwood Drive.

Is this so homeowner get discouraged and toss it in the trash and not respond.

I am against any further development on Westwood Drive. I bought my home in 2016 on a quiet street, since then the school has been torn down and 128 homes built down the road from my home and up the road closer to Glasgow many townhomes were developed.

I live at _____ the middle of this drive and traffic is congested and Glasgow and Westwood and the Westwood and Westmount.

4 more homes means probably another 8 vehicles coming out of the driveway and exiting onto Glasgow.

PLEASE SEND ME MATERIALS THAT ARE LARGE ENOUGH TO READ, SO I CAN FURTHER RESPONSE. POSSIBLE MAIL OUT A LARGER VERSION TO THE HOMEOWNERS. Not sure who approved this printed version of this postage. So unfair that homeowners cannot read this.

Kathie Stone-Mason

Process Server



At Family and Children's Services Waterloo we are doing our part to reduce the spread of COVID-19 while still responding to concerns about families, children and youth. For this reason, staff are working from home, and checking email and voicemail throughout the day.

If you have concerns about a child, please call _____ and press 2, and a child protection worker will take your call.

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Eric Schneider

From: Lillian Bass
Sent: Tuesday, October 12, 2021 2:29 PM
To: Eric Schneider
Subject: [EXTERNAL] Fwd: 400 Westwood application for development
Attachments: Bass re 400 Westwood.pdf

Eric - I forgot the 'dot' in your email address first try.

Lillian

Begin forwarded message:

From: Lillian Bass
Subject: 400 Westwood application for development
Date: October 12, 2021 at 1:28:51 PM EDT
To: ericshneider@kitchener.ca, Margaret Johnston <margaret.johnston@kitchener.ca>
Cc:

Eric & Margaret,

Please see the attached letter outlining our comments re: the application for development at 400 Westwood Drive.

We understand that next steps, following the October 17th deadline for comments, will be a neighbourhood information session some time in November. We look forward to further discussions with you then.

Best regards,

Lillian & Andrew Bass

October 12, 2021

Eric Schneider
Planner
City of Kitchener
200 King St. W.
Kitchener, ON
N2G 4G7

Delivered via email to ericshneider@kitchener.ca

Margaret Johnston
Counsellor, Ward 8
City of Kitchener

Delivered via email to margaret.johnston@kitchener.ca

Re: Application for Development at 400 Westwood Drive

Dear Mr. Schneider and Ms. Johnston,

Thank you for including the properties on Maple Hill Drive in the City's recent notice about the Application for Development at 400 Westwood Drive. We have been participating in the carefully researched and considered analysis by our neighbours in the Green Belt Neighbourhood Association which we understand has been active in protecting the area's mature urban forest since the original plan of subdivision in 1978. As relative newcomers to this part of the city, we are grateful for this long history of care, particularly the leadership of Judy-Anne Chapman, which has protected the woodlots and streetscape which drew us to the neighbourhood.

We agree with the contents of the consolidated submission re: 400 Westwood Drive development, and add our further personal comments below:

- Storm water management becomes more urgent with the heavy downpours we experienced in 2021 and expect to have in a climate change future. Mature forests absorb run-off, limit soil erosion and help stabilize the water table. Run-off and drainage is a particular concern with the proposed development.
- Heat island effects are well studied and will become more pronounced as temperatures rise and summer seasons lengthen with climate change. Preservation of sizable urban forest areas is critical to reducing heat island effects, and so we should not approve intensification within mature urban wooded areas.
- As we increase the density of our city to rightly limit urban sprawl, the trees we have will become even more precious for their environmental benefits, innate beauty and protection of diminishing wildlife habitat.

- This neighbourhood is on the west side of the city, so the prevailing winds are first felt and moderated here before impacting areas closer to downtown. Removing west side trees weakens the windbreak for all properties further east, makes successive wooded areas more susceptible to wind damage, downage of power lines, blockage of streets and potential harm to buildings and people.
- While we are grateful that the Region has been able to stretch usage of the Erb St. Landfill for another 20 years, the southerly position of the cells which will be used for its remaining lifespan are prone to landfill odour being blown down Glasgow and University into our neighbourhood. Preserving substantial groups of trees helps to diffuse and slow odour transmission.

The issues raised by the proposed 400 Westwood application highlight why we believe strongly that Kitchener needs a tree preservation bylaw similar to that of the City of Cambridge which would apply to all properties, not just those greater than one acre in size. On Maple Hill Drive, most of the lots are less than one acre and several properties have been essentially clear cut of mature Sugar Maple, American Beech, Basswood and other heritage native species to accommodate rebuilds of large homes and installation of pools. We are presently concerned about plans for the property next door to us which the owner intends to demolish and rebuild. While we do agree that particular house is beyond saving, we are concerned for the trees near our property, which include Sugar Maples our arborist estimates at 125 years old. We are taking the initiative to reach out to our future neighbours to discern their plans and, if needed to save the trees, are willing to go as far as buying a strip of their lot to add to our property. Such extensive efforts by individual homeowners would not be needed if we had a city-wide bylaw that protected mature trees, even on private property.

We are somewhat heartened by Kitchener's Urban Forest Strategic Plan, but intentions to plant more trees in the near future are no substitute for protecting the mature urban canopy we already have. By the time new plantings reach the size and beneficial coverage that the existing urban forest does, two or three generations will have passed and those future Kitchener residents will be dismayed that we didn't act now to protect the future livability of the city.

Should you have any questions, please reach out at the contact information below.

Best regards,



Lillian Bass



Andrew Bass

Copy to Judy-Anne Chapman, Green Belt Neighbourhood Association

Eric Schneider

From: Kate Lawson
Sent: Friday, October 15, 2021 10:03 AM
To: Eric Schneider; Margaret Johnston
Cc: Bruce Wyse;
Subject: [EXTERNAL] 400 Westwood Dr. rezoning application

“Conserve and protect the urban forest prudently on public and private lands.”

- “It’s a Tree’s Life: Kitchener’s Sustainable Urban Forest Strategy 2019-2039”

We are writing to state our objections to the proposed zoning change and property subdivision regarding 400 Westwood Dr., Kitchener. We also want to state that we fully and enthusiastically support the submission by the Green Belt Neighbourhood Association in this regard.

We live in part of the same forest ecosystem as the subject property—a contiguous mature forest with a diversity of flora including tree species that provides a habitat for wildlife large (fox) and small (bats, rabbits, chipmunks, reptiles, etc.), and for song birds and raptors. When Bruce Wyse’s parents built our house in 1959, they planned even then to maximize the preservation of mature forest. As the property owners since 2011, we are committed to continuing to support this forest ecosystem (planting trees, treating mature ash trees for the emerald ash borer, pruning and cutting older trees, etc.).

By contrast, the 400 Westwood Dr. proposal will degrade the quality of the continuous mature forest, especially by severing and stranding the portion of forest on the adjacent lot (to the south) from the remaining mature urban forest.

We ask the City of Kitchener to show its commitment to this ecosystem; to show that it is serious about its “Sustainable Urban Forest Strategy”; and that it will act in ways large and small to mitigate climate change by denying this zoning change and property subdivision.

Please note that we are strongly in favour of intensification of housing in Kitchener to try to address the severe housing crisis that is underway. However, a mature forest is not the place to intensify the housing stock. There are few discrete ecosystems in Kitchener with the profile of the Green Belt Neighbourhood. This may sound like NIMBYism but, we hope, it will be understood as an environmentally informed position.

We understand that the current owners of 400 Westwood do not live there, have not (to our knowledge) shown an interest in the integrity of the neighbourhood or in the impact of their actions on the neighbouring properties. If this application is approved, it will encourage others to buy properties in the Green Belt with the sole intention of profiting through the cutting of trees and destruction of the ecosystem.

We thus respectfully request that the rezoning application be denied.

Sincerely,

Kate Lawson and Bruce Wyse

Kitchener N2M 2N7

Eric Schneider

From:
Sent: Friday, October 15, 2021 10:19 AM
To: Eric Schneider; Margaret Johnston: i

Subject: [EXTERNAL] 400_Westwood_Drive-Application_for_Development-Green_Belt_Neighbourhood_Association_Group_Submission
Attachments: 400_Westwood-Green_Belt_Neighbourhood_submission-JW_Chapman.pdf

Dear Eric Schneider,

Thank you for the opportunity to comment on the proposal for development of 400 Westwood Drive.

Colour card stock copies of the Planning Department post cards were delivered to the residences not covered by the Kitchener mail distribution: that is, to the remaining homes on Maple Hill, Glasgow, Knell, Westwood, Huntington, and Gallarno.

Please find attached a group submission for the Green Belt Neighbourhood.

Would you please confirm receipt of this message.

We look forward to upcoming interactions with you.

Our Ward 8 Councillor, Margaret Johnston, is cc'd.

Sincerely,

Judy-Anne Chapman, Ph.D.
Green Belt Neighbourhood Contact

400 Westwood Drive subdivision proposal involves:

- Zoning change from R2 to R4 within a mature Urban Forest

Further intensification from the 1978 Kitchener Council approved subdivision of the mature forest residential lot at the corner of Westwood Drive and Glasgow Street into 5 lots, 4 of which were created shortly after approval, with 400 Westwood then later split/intensified into 2 lots in 1999.

- *Further* subdivision of 400 Westwood Drive, 1 of the 5 1978 approved subdivided lots is now proposed for a further subdivision to be divided into 5 lots:
 - Approximately half of the area has proposed subdivision to 4 (R4) residential lots
 - Approximately half of the area, a hilly lot of mature forest, is proposed after severance to be *designated as undevelopable open space (P2)* and added to 787 Glasgow Street.

Neighbourhood Background:

The Green Belt Neighbourhood Association was formed in 1978 in response to the original subdivision plan. Green Belt is defined as Maple Hill Drive in the north to Westwood Drive in the south, and on the west [East side of Silvercrest (Kitchener) North of Glasgow / Westwood Drive south of Glasgow] to Knell Drive on the east.

Green Belt Neighbourhood Association residents negotiated with the developer and supported the 1978 Kitchener Council approved subdivision plan of the original lot at Westwood Drive and Glasgow Street.

The proposed plan and rezoning represent a direct encroachment of incompatible development into the contiguous core of the Green Belt mature Urban Forest area which will entirely sever and strand the portion of forest contained on the lot adjacent-south, from the remaining mature Urban Forest core. The intrusion of what would be deforested area is visibly apparent in the Planning Justification report submitted by the developer. Both this report and the Arborist report make no mention of the existence of the Green Belt Neighbourhood and do not acknowledge that the development is proposed within it.

Aerial View of The Green Belt:



- Legend:
- Green Belt Neighbourhood
 - Original 1978 Lot at 400 Westwood
 - Past Proposed Intensification Rejected by the OMB
 - Current Proposed Development Lot (400 Westwood)

Premises for 1978 subdivision:

- Zoning would be maintained, so there was no negative precedent to impact nearby mature forest.
- Zoning for the property permitted the increase (intensification) from 1 to 5 residential lots with agreement and support from the Green Belt Neighbourhood Association.
- Tree plans and tree protection measures during development were put in place to protect the undeveloped mature forest.
- A good draft of the Kitchener Tree Preservation Bylaw existed, however, was not yet approved.

Characteristics of current proposal

Quantification of tree losses based on the arborist's report:

Trees for Removal		Condition			Grand Total
Preservation Priority	Common Name	Good	Fair	Poor	
High	Sugar Maple	3	2	1	6
High Total		3	2	1	6
Moderate	American Beech	1	1		2
	Basswood		1		1
	Cherry sp.	1			1
	Sugar Maple		2		2
	Yew sp.	1			1
Moderate Total		3	4		7
Low	American Beech		1	3	4
	Colorado Blue Spruce			1	1
	Magnolia Sp.	1			1
	Norway Maple	1			1
	Sugar Maple			6	6
	Yew sp.		1		1
Low Total		2	2	10	14
Grand Total		8	8	11	27

Potential Damage			Condition		Grand Total
Preservation Priority	Common Name	Location	Good	Fair	
High	Sugar Maple	795 Glasgow St.		1	1
		Proposed development lots	4	1	5
		Shared property boundary (795 Glasgow St.)	1		1
High Total			5	2	7
Moderate	Norway Spruce	Proposed development lots	2	2	4
		Proposed severed lot	3	1	4
		Shared property boundary (795 Glasgow St.)	1		1
	Sugar Maple	Proposed development lots		1	1
Moderate Total			6	4	10
Low	Norway Spruce	Proposed development lots		1	1
Low Total				1	1
Grand Total			11	7	18

Additional findings:

- The arborist's report indicates that written approval is required by 795 Glasgow for the possible damage to trees A & B on their property boundary.
 - *Residents at 795 Glasgow do not approve*, given the 2 trees are an important part of their tree inventory.
 - There are additional concerns about negative impact to other trees from root damage, with a foundation inset of only 2.5 meters for the building on lot 1 nearest their property.

- There is no reference in the supporting documents to substantial impact on 396 Westwood's trees or property.
 - 396 Westwood residents alert the Planning Department to an error in identification of trees along shared boundary with common ownership in Arborist's report. These trees will require the written approval of 396 Westwood for removal, and agreement will not be granted. Additionally, there is little mention of the presence of a large and mature cedar hedge natural barrier along the shared boundary, also requiring written approval from 396 for removal, which will not be granted.
 - There is a lack of acknowledgement of the ownership of the retaining wall by 396 Westwood. This wall is identified numerous times in the supporting documentation of the developer as "to be removed" as part of the development plan but its planned removal is omitted from the primary plan drawing submitted in the application. No notice of such a plan has been given to the property owners and approval of the owners has never been sought by the developer for such an action and would amount to a destruction of property.
 - The development group did not have the correct reference point and should revise the report accordingly, regarding:
 - Trees contained within the elevated terrain common boundary area and held in place by the retaining wall
 - Risk of collapse of boundary trees and retaining wall from any tree removals or excavation of supporting earth along the boundary of the proposed development lot.
 - Planned surface grading differentials between the 2 properties
 - Removal of the retaining wall, which is located solely on the 396 Westwood property, *without consent*.

- Further effects on neighbouring properties may be submitted individually or in a later report.
- Notice signs, which the applicant is required to clearly post in front of the property as part of the application process, have not been posted as of the time of this writing (October 12th, 2021)

Objections to the current Subdivision Plan for 400 Westwood

1. The proposed zone change from R2 to R4 is against the 1978 negotiated agreement of subdivision for this mature Urban Forest. The 1978 plan was already a 2-stage intensification from 1 residential lot to 5, and it maintained the zoning of the original lot. The second stage of subdivision occurred in 1999 at a time when 400 Westwood, like the rest of the mature forest properties along Glasgow Street, Silvercreek and Maple Hill had a R2 zone. The new 400 Westwood property maintained its R2 zone, while 35 Dayman was zoned R2 at the rear and R3 at the front.
2. A zoning change to permit greater residential intensification now, in a Mature Urban Forest is inappropriate, will negatively impact the mature forest of nearby properties, and will set a negative precedent which could quickly lead to the breakdown of this contiguous mature Urban Forest. The move is counter to Kitchener's Strategic Plan for Urban Forest which seeks to increase Kitchener's Urban Forest. Protection of existing mature Urban Forest aligns with the city's Strategic Plan. All surrounding properties with mature Urban Forest are zoned R2.
3. Recently, the OMB rejected the zoning change and intensification for another mature forest property at Silvercrest Drive and Glasgow Street, opposite the same town houses that 400 Westwood Drive faces, in part based on lack of comparability between properties with/without mature forest. *Development and intensification in mature urban forest needs to be distinguished from development on land without mature urban forest.* This is the most analogous, and most recent precedent available, contrary to examples used in the developer's Planning Justification report.
4. The proposed plan would result in the complete elimination of the single largest section of mature Urban Forested property frontage along the entirety of Westwood Drive.
5. 396 Westwood (R2) is oriented such that the front of the house faces the mature trees and cedar hedge natural barrier along the boundary shared with 400 Westwood (R2) and the back faces 392 Westwood (R4). Change of 400 Westwood to R4 would orphan 396 Westwood's R2 property between two R4 lots, disrupt the orderly transition from R4 to R2 on the street and sever a section of the forest from the contiguous mature Urban Forest core.
6. The parking plan is inadequate, providing only single car driveways with heavy dependence on on-street parking without consideration of existing overflow and congestion on street caused by inadequacy of parking allocation for recently developed townhouses. Further increases in on-street parking within a span of multiple GRT and school bus stops would be inappropriate.

7. The proposed development is incompatible with surroundings in terms of lot width, forested frontage, lot density, structure setbacks, structure heights, parking accommodation, ratio of lot area to structure area and represents a disorderly transition of zoning along the street.
8. The proposed development does not represent gradual intensification as stated in the Planning Justification Report since the property is surrounded by mature urban forest developed with a R2 zone. The 400 Westwood Drive property has a R2 zone that would permit subdivision into two R2 lots.

Recommended Changes to Plan for Subdivision of 400 Westwood Drive:

We recommend the lot maintain its R2 zoning which, based on the frontage for 400 Westwood Drive would permit subdivision to two larger lots, rather than 4 on the western half of the property.

- Two larger homes side by side near Westwood Drive could be built at the front of the 2 new properties. This doubling of residences would be intensification, within existing zoning. We would support a minor variance to building code should it be required to avoid the addition of a second cut through the front forest.
- The existing single entrance off Westwood Drive would provide side access to each of the 2 new properties without property front tree loss.
- The footprint of the existing structure would support two smaller structures, instead of the current one large home, with minimal impact to existing trees.
- The hilly mature forest behind the lots could be protected during development.
- A positive precedent would be set for future developments of mature forest.
- The developer's existing plans could be easily modified to suit the revised plan in a manner which is amicable to all adjoining landowners and the greater community.
- Developer must make all reasonable efforts to avoid obvious conflicts which would endanger the safety and property of adjacent and nearby residents and properties.
- Developer should be considerate of, and place some emphasis on respectful maintenance of existing adjacent uses of land and existing natural-barrier privacy envelopes.
- Maintenance and protection of Kitchener's existing mature Urban Forest while planting small trees elsewhere is the most efficient mechanism to increase Urban Forest throughout the city and meet the goals of City's Strategic Plan.

- The Green Belt Neighbourhood Mature Urban Forest is a resource enjoyed by many in Kitchener with the Glasgow traffic calming measures, Regional bicycle path, and side walks. Please protect the existing mature Urban Forest.

Respectfully submitted on behalf of concerned Green Belt Neighbours,

Judy-Anne Chapman, PhD,
Green Belt Neighbourhood Contact.

cc Joe Jasinskas

Paul Goodwin

Saladin Sahinovic

Alen Sahinovic

Murray and Susan Kohler

Denise Nowak

Kate Lawson

Bruce Wyse

Lillian Bass

Andrew Bass

Jim Chapman

October 15, 2021

Via E-mail (eric.schneider@kitchener.ca)

Eric Schneider
Planner
City of Kitchener
200 King Street West
Kitchener, ON N2G 4G7

John S. Doherty
Direct +1 519 575 7518
Direct Fax +1 519 571 5018
john.doherty@gowlingwlg.com
File no. K0567317

Dear Mr. Schneider:

Re: Letter of Objection
Proposed Re-development of 400 Westwood Drive, Kitchener

We are counsel for Andrew Goodwin and Joe Lasinkas, owners of property municipally described as

We write further to the Zoning By-law Amendment and Consent applications for 400 Westwood Drive, Kitchener (the "**Subject Property**"). The owners of the Subject Property are proposing to demolish the existing residence and develop four (4) single detached lots/dwellings on the Subject Property (the "**Redevelopment**") next door to our Clients' property, as well as conveying the rear half of the Subject Property to the owner of 787 Glasgow St, as a lot addition. While our Clients were provided with a written notice of the Redevelopment in the mail, no notice sign has been posed in front of the property as of the time of writing this letter and there may be members of the public who have not been provided with sufficient notice.

Historic Development of Subject Property

Munk Subdivision and Established Green Belt

The Subject Property is located near the intersection of Westwood Drive and Glasgow Street, and the single residence is located on a portion of Lot 1 of the original four-lot Yvonne Munk Subdivision Plan (the "**Munk Subdivision**") established in the late 1970s (copy of plan attached at **Tab "1"**). The Munk Subdivision lands and the broader neighbourhood around Glasgow Street are characterised by a green belt of mature forest.¹ When the application for the Munk Subdivision was made, the Green Belt Neighbourhood Association was formed in response to the application, and the Association agreed to support the application in exchange for the preservation of the Green Belt located on the subdivision lands, including the following conditions,

"4. Existing Conditions

¹ Bounded by Maple Hill Drive in the north to Westwood Drive in the south, and on the west [East side of Silvercrest (Kitchener) North of Glasgow / Westwood Drive south of Glasgow] to Knell Drive on the east.

The property being subdivided is at the corner of Glasgow Street and Westwood Drive. The property will retain its Township Residential zoning which requires lots with a minimum area of 0.20 hectares (one-half acre). The surrounding property is residential with large lot development along Glasgow Street and Semi-Detached development along Westwood Drive. The lot is heavily wooded."

(see attached letter from Green Belt Neighbourhood Association Coordinator Judy-Anne Chapman, dated October 22, 1999 at **Tab "2"**)

The 400 Westwood 1999 Severance

In 1999, more than 20 years after the Munk Subdivision was established, a further severance was approved subdividing Lot 1 further and allowing for a single infill site at the south-eastern rear of the Subject Property fronting onto Dayman Court. This Severance left the portion of Lot 1 that currently comprises the Subject Property today, including the retention of the woodlot at the rear of the property.

At the time of the 1999 severance application, City Council was reminded of the agreement between the Green Belt Neighbourhood Association and the original developer. As a condition of approval, the City required a Tree Preservation/Enhancement Plan which minimized the impact on the wooded character of the severed lot, consistent with the other Munk Subdivision lots.

The Current Re-Development Application

The current redevelopment application seeks to subdivide the Subject Property into five (5) lots, as detailed below in the table included on page 11 of the IBI Planning Justification Report,

Description	Proposed Area	Proposed Frontage
Lot 1	627.7 sq. m	15.3 m
Lot 2	477.3 sq. m	11.6 m
Lot 3	477.3 sq. m	11.6 m
Lot 4	470.1 sq. m	11.5 m
Lot 5	1,785.0 sq. m	0.0 m (on Westwood Drive)

The proposed re-development would require a significant jump in zoning from R-2 to R-4 and result in the original Lot 1 from the Munk Subdivision being subdivided into six (6) separate lots (it is currently two [2] lots as a result of the 1999 severance), with four development parcels shoe-horned between the same lots from the Munk Subdivision, with their same estate lot dimensions and wooded character.

Our Clients sought a planning opinion from Mark Dorfman, who has opined that no more than three (3) residential lots and R3 zoning is appropriate for the Subject Property from a planning perspective. He also cautions the City of Kitchener to not amend the Zoning Bylaw, then later deal with the site impacts as site plan issues, without first consultation with the neighbors in the community. A copy of his planning opinion is attached at **Tab "3"**.

We note that earlier this year, the City's Committee of Adjustment also refused Consent Applications sought for the purpose of creating a similar four unit infill re-development application for a single existing lot at 654 Rockway Drive (Submission No.: B 2021 to B 2021-023) (Committee Decision Attached at

Tab “4”). In that case the property was already zoned R-4 Residential as-of-right but the Committee concluded that it was “not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood”, which is required by Sections 4.C.1.8 and 4.C.1.24 of the City’s Official Plan.

Impacts on Adjacent Properties

While Mr. Dorfman has opined that R3 zoning and a three (3) unit development could represent maximum intensification of the Subject Property, there are a number of physical impacts on the adjacent properties which would prohibit a four (4) unit development, and may also prohibit even a three (3) unit re-development.

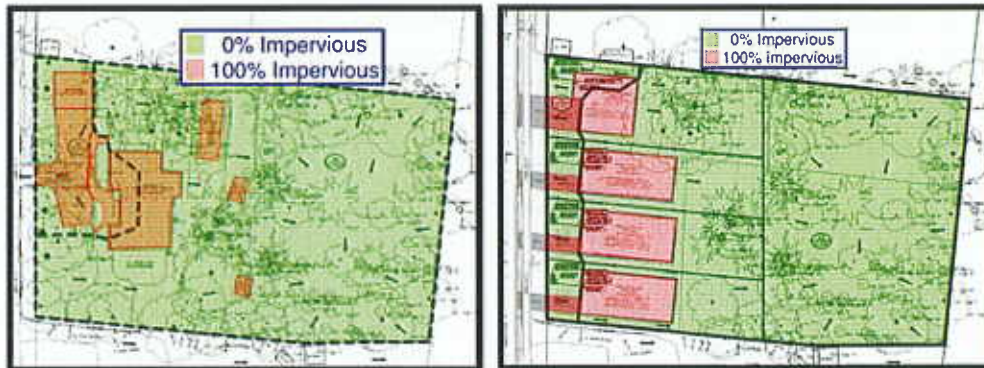
Change in Grade

Significant re-grading is proposed across the Subject Property to accommodate the re-development proposal. As detailed on the Existing Condition and Removal Plan (Sheet 1) contained in the Functional Servicing and Storm Water Management Report, the owner is proposing to remove the retaining wall along the entirety of the frontage of the Subject Property on Westwood Drive, and a portion of the wall located on 396 Westwood Drive. We understand that this removal is for the purpose of lowering the grade of the Subject Property by approximately 1-1.25 metres towards street level, to accommodate the additional building lots, and that the result of this change in grade will necessitate the removal of numerous mature trees.

Drainage

On page 29 of the IBI Planning Justification Report, it is suggested that “Additional stormwater controls are not required due to the relatively small increase in imperviousness and the maintenance of existing drainage patterns.” In light of the significant grade change proposed, it is hard to understand how existing drainage patterns can be maintained, and the suggestion that there is only a small increase in imperviousness is misleading.

On page 29 of the Planning Justification Report, IBI states that the average imperviousness of the development lands will increase from 13% to 18%. These percentages are detailed in the Imperviousness Analysis on pages 3 and 4 of the Functional Servicing and Storm Water Management Report. IBI arrives at these percentages by averaging the impervious area of the entire site (mapping reproduced below), including the woodlot at the rear of the site which will be conveyed to the owner of 787 Glasgow Street, rather than the area in which the new lots are proposed.



In calculating the average existing imperviousness, IBI includes the sheds and a pool, which are additional impervious uses which may be deployed on any of the proposed four lots. Using the before and after percentage of imperviousness based on the size of the entire property (including a woodlot that will not be developed and will be conveyed to a third party) does not accurately gauge the impact on drainage caused by the development at the front of the property, where only minimal setbacks from the adjacent properties to the North and South are proposed. The 13% and 18% before and after averages identified by IBI were generated by dividing the 0.05 ha of predevelopment impervious areas and 0.07 ha post development impervious areas by the total 0.38 ha Subject Property. The problem with this approach is that it does not gauge what percentage of the development area will be impervious after the woodlot has been transferred to another owner.

The table from page 11 of the IBI Planning Justification Report reproduced above, identifies the rear woodlot portion of the Subject Property as being 1,785 square metres, or approximately 0.1785 ha. If 0.1785 ha is subtracted from the Subject Property's total 0.38 ha, it leaves 0.2015 ha for the four proposed development parcels, and an average coverage rate of 34% ($0.07\text{ha} \div 0.2015$) for this area. Even with the inclusions of the sheds and pools present on the Subject Property, there is an increase in the average impermeability from 13% to more than double that, at 34% for the four proposed development lots.

It is not clear that the proposed development can account for these additional flows, especially where the grade is changed dramatically, and only minimal setbacks are provided for. Our Clients do not consent to accepting additional stormwater flows from the Subject Property as a result of a failure to account for the additional impermeable area and its proximity to the property line.

Loss of Mature Trees

It is clear from the Existing Condition and Removal Plan, as well as the proposed removal of the retaining wall and respective grade change, that numerous mature trees are proposed to be removed. To accommodate the three additional driveways off of Westwood Drive, and as a result of the minimal separation between the proposed residences, there is also very little room to reinstate any equivalent sized trees and it is not clear from the Arborists Report how the significant loss of trees will or can be addressed through new plantings. As a result, the Subject Property will no longer have the wooded character of the adjacent properties along Westwood Drive and Glasgow Street.

Page 8 of the IBI Arborist Report indicates that they have surveyed a total of 122 trees on the Subject Property and another 21 on adjacent properties. They indicate that 70 trees will be preserved on the woodlot (conveyed to 787 Glasgow Street), and only 26 on the proposed development lots. There are 27 proposed tree removals on the Subject Property, only three of which are recommended to be removed due to their alleged hazard status.

Based on IBI's survey, the proposed development would see more than half of the 52 trees in the area of the proposed development lots removed. This is not in keeping with the character of the adjacent lots along Glasgow Street and Westwood Drive, and the preservation of the Green Belt a condition to the Munk Subdivision approval. Our Clients are also concerned that these are not all of the trees that will be affected, and that some have been missed in the IBI survey. Our Clients are also concerned that additional trees will be damaged and lost as a result of the significant change in site grading, along with the proposed removal of the retaining wall.

In addition to the trees located on the Subject Property, on page 5, IBI notes that there are several trees located in close proximity to the property boundaries which are proposed to be removed. They have assumed that any shared tree located on the property boundary or within 0.3 meters will, in accordance with the *Forestry Act*, require written approval from all property owners prior to initiation of any work and tree removals. To be clear, our Clients' consent was never sought by the developer and will not be granted for the removal of any shared tree protected by Section 10 the *Forestry Act*, nor the removal or damage to any trees on their property as a direct or indirect result of the proposed development.

It is also unclear to them how the minor setbacks proposed could be accomplished without the removal of these trees, including as an indirect effect of the removal of the retaining wall.

Loss of Screening and Privacy

As a result of the loss of more than 50% of the trees across the area of the proposed development lots, there will be a loss of screening between the Subject Property and the adjacent properties. This will be exacerbated by the limited setbacks proposed. In addition to the loss of trees, other vegetation will also be removed as part of this process, and the lowering of the grade on the Subject Property will only exacerbate this loss of privacy.

Precedent

In 2011, the City of Kitchener's Committee of Adjustment refused to grant the necessary permissions to redevelop 814 Glasgow Street (a similar wooded estate lot approximately 100 metres from the Subject Property) from a single residence to three residential lots. The decision of the Committee was appealed to the Ontario Municipal Board (the "**Board**"), and the appeal was dismissed (Decision attached at **Tab "5"**). In dismissing the appeal the Board made the following findings based on the expert planning evidence of Mr. Dorfman, which remain applicable:

...The Provincial mandate for intensification is not a licence [*sic*] to abandon sound planning principals [*sic*], or to diminish appropriate land use planning standard in search of more density. Alternatively, intensification requires sensitive design as stated in the City of Kitchener's Official Plan that "shall be consistent with the massing, scale, design and character of that neighbourhood and both appropriate landscaped areas and appropriate parking areas are provided."

The Board would note that the existing zoning standards of the City of Kitchener covering this area are substantial in comparison to contemporary residential zoning standards found to the immediate west. However, the facts in this case are that the standards established by Zoning By-law 85-1 of the City of Kitchener being "Residential Two Zone (R2)" are minimum standards when compared to the development that has already occurred in this area and provides a suitable regulatory framework for the intensification of this area. The Board finds in this case that to further reduce the lot area standard for Lot A would not result in appropriate development consistent with the form of development that characterizes this neighbourhood of the City of Kitchener, and that on this basis the relief sought for proposed Lot A is not minor and would not meet the intent and purpose of the City of Kitchener's Official Plan and Zoning By-law and would not result in the appropriate development of this area...

As noted by the Board in their decision, and in the recent decision by the City's Committee of Adjustment refusing to grant a similar 4 lot infill application, intensification "shall be consistent with the massing, scale, design and character of that neighbourhood".

Conclusion

Our Clients are not opposed to reasonable development but not at the expense of sound planning principles. They therefore ask that the City deny the zoning by-law amendment and consents sought to permit a 4 lot development, as this clearly does not represent good planning in the public interest.

In a spirit of neighbourly co-operation, our Clients would, however, be willing to meet with the owners of 400 Westwood Drive and other impacted property owners to see if a more appropriate scale development could proceed which addresses their concerns with respect to grade change, drainage, the loss of trees, screening, and the other physical impacts to their property. Our Clients therefore ask that sufficient time be provided between the neighbourhood information session and the Committee and City Council decisions so that these discussions may take place.

Yours very truly,

Gowling WLG (Canada) LLP

John S. Doherty

JSD:hp
Encl.

cc: City of Kitchener Clerk (clerks@kitchener.ca)
Jacqueline Armstrong Gates and Jonathan Minnes, Gowling WLG (Canada) LLP
Clients

TAB 1

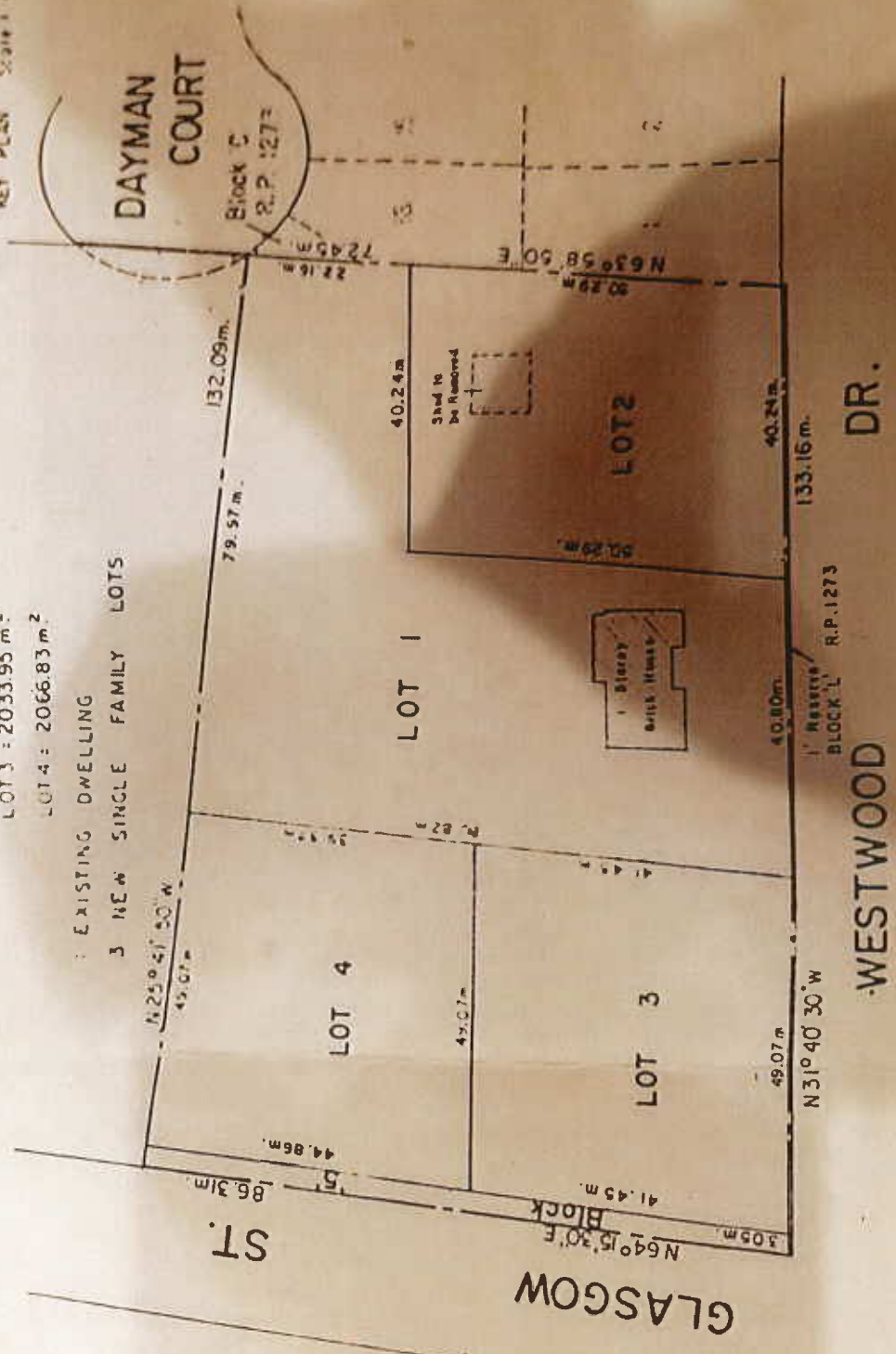
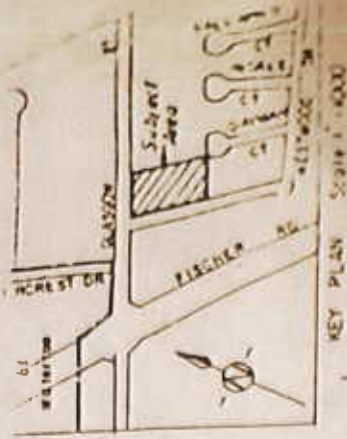
- SUBDIVISION PLAN -

For YVONNE MUNK

TOTAL AREA : 10,528.16 m²
 ZONING ALL TWP R
 AREA OF BLOCKS : 263.25 m²

LOT 1 : 4140.46 m²
 LOT 2 : 2023.67 m²
 LOT 3 : 2033.95 m²
 LOT 4 : 2066.83 m²

EXISTING DWELLING
 3 NEW SINGLE FAMILY LOTS



TAB 2

Kitchener, Ontario.
October 22, 1999.

Councillor Chris Weylie,
West Ward

Kitchener, Ontario.

Dear Councillor Weylie (Re: Committee of Adjustment Application No. B 61/99),

Thank you for representing me at the Committee of Adjustment meeting on Tuesday, October 26th. I had a hysterectomy on Thursday, October 14th so am unable to personally attend the meeting or to arrange for an informed neighbourhood representative to attend on my behalf on such short notice.

The severance of Dr. and Mrs. Nurse's property was only brought to my attention on Wednesday, October 20th by Dr. Nurse. Over the last two days, I have discussed the current situation with both the Nurses and the Planner involved, Zyg Janecki.

There is a negotiated **Plan of Subdivision** from 1978/79 covering the original development of the Munk property from which this current Nurse property derived. I was the neighbourhood contact for the original **Plan of Subdivision** and am objecting both about

1. the current proposed severance

and

2. the process under which this severance is being considered.

1. Current severance:

- The negotiated settlement for the **Plan of Subdivision of the Munk property** (see attached sheets) came with the following clause:

"4. Existing Conditions

The property being subdivided is at the corner of Glasgow Street and Westwood Drive. The property will retain its Township Residential zoning which requires lots with a minimum area of 0.20 hectares (one-half acre). The surrounding property is residential with large lot development along Glasgow Street and Semi-Detached development along Westwood Drive. The lot is heavily wooded."

The intent of this clause was to preserve the nature of development **within the woods** to be similar by zoning category to adjacent wooded properties; this was protective of adjacent, or like, treed properties in that it preserved the nature of treed development, not setting a precedent for higher zoning in future development.

While the final original diagrams do not indicate a severance line for the intended (even at that time) eventual subdivision of the block of land now represented by the Nurse property, it was understood by both the developer and neighbourhood that this would likely take place sometime in the future at a time when the (future) landowner decided how to split the property. There was an understanding that the neighbourhood would not have grounds for objecting to such a severance should it proceed **exactly** along the lines of the original **Plan of Subdivision** because of the precedent set by the original subdivision. I have

steadfastly reminded old, and informed new, neighbours of this precedent and implications in several decades of neighbourhood work.

The zoning categories have changed through the years, but the developed lots from the original Munk subdivision all now have an R2 zone (10,000 square feet minimum; 0.223 acres), although they, like the surrounding large treed lots, greatly exceed this minimum, i.e. 1/2 acre lots are 21,780 square feet in size and many nearby properties are at least 1 acre in size.

Zoning would be consistent with adjacent zoning if it was R2; therefore, the analogous appropriate zoning for a severance of the Nurse property should be an R2 (10,000 square feet) not an R3 (minimum 4,886 square feet or 0.1 acres).

Implications:

- i. The current size (8,961 square feet; 0.2 acres) of property to be created by the severance is closer to an R2 zone, but creates a property that is out of character by R3 zoning category with adjacent treed properties, including those created and developed by the original Plan of Subdivision. It would set the precedent for implementation of treed development at an even smaller size throughout the area.
- ii. The current application for severance should be rejected, in favour of a severance that creates an R2 lot. This would have the end result of following the intention of the original Plan of Subdivision. The neighbourhood would be supportive of an expeditious processing of any zone change application.
- iii. The development under an R2 zone may not only save trees in the current development (i.e. factors determining base of house and effect on trees will be other than those of house size for R2 versus R3 zoning: soil conditions, drainage, tree loss, etc.), but would not set a detrimental precedent for future development. It would be consistent with intent specified in the negotiated Plan of Subdivision.

2. Process for this severance:

Given this is a last implementation of intent of the Plan of Subdivision which created the Nurse property and

the nature of the proposed severance, which departs from the intended character of development under the Plan of Subdivision,

the current process/framework (under the Committee of Adjustment) for considering this changed intention of implementation of the original severance is inappropriate.

- i. The circulation was restricted to only those within a 200 foot (60 meter) radius of the Nurse property.
- ii. I live two properties away from the 200 foot limit (well within the 120 meter limit for Planning process circulation), and did not receive a circulation.
- iii. I also did not receive notification as the original neighbourhood negotiator for the Plan of Subdivision which I would have under the Planning process.

These three facts resulted from the consideration of the subdivision as a straight forward severance.

Had the departures from intent of original Plan of Subdivision been noted by Planning Staff, and a Planning framework been implemented, I would have been included in the original circulation as would others in the neighbourhood who were founding participants in the original Plan of Subdivision. We have had relatively little change in residents of the adjacent lots in the over two decades of implementation of the Plan of Subdivision.

Concluding requests as a result of the above considerations:

That you reject the current proposal for severance.

and either

1. Postpone approval of any severance, pending presentation of a severance which is in character (R2 zoning) with the intent of the original Plan of Subdivision.

OR

2. Refer the proposal of subdivision/severance to a review through the Planning process, where the changed nature in intent from the original plan may be considered by a broader spectrum of residents, or the neighbourhood can support a zone change process to R2 zoning, to maintain the intent of the original Plan of Subdivision. (Please note, that the actual 0.2 lot size is closer to an R2 minimum of 0.223 acres than the R3 minimum of 0.1 acre; might the current proposed severance be viewed as an aberrant R2, if this was supported by consensus of the neighbours as a desirable feature to protect the future of precedent for adjacent trees.)

Respectfully,



Judy-Anne Chapman, PhD
Coordinator for Green Belt
Neighbourhood Association

CC Dr and Mrs. W. Nurse (Applicant)
Zyg Janecki (Planner)
Residents within 200 feet of 400 Westwood Drive

Kitchener, Ontario.
November 10, 1999.

Janet L. Billet,
Secretary,
Committee of Adjustment,
Department of General Services and City Clerk,
City Hall, 2nd floor,
200 King Street West,
Kitchener, Ontario.

Re - Submission No.: B61/99
Applicant: Elizabeth and William Nurse

In your notification of November 5, 1999, you state that I am entitled to receive notice of any changes to the conditions of the Provisional Consent if I make a written request to be notified of changes to the conditions. Please accept this letter as such written notification. I am particularly concerned about any changes to condition 7. about the Tree Preservation/Enhancement Plan.

Sincerely,



Judy-Anne Chapman, PhD

cc Councillor Chris Weylie

conditions within one year of the date of giving notice of this decision

subsection 23 of Section 23 of the Planning Act, the

throughout

TAB 3

Mark L. Dorfman, Planner Inc.

219 - 50 Westmount Road North, Waterloo, ON, N2L 2R5
Telephone: 519-888-6570 ~ Facsimilie: 519-888-6382 ~ E-mail: dmark@mldpi.ca

October 15, 2021

**Mr. John S. Doherty,
Gowling WLG (Canada) LLP,
345 King Street West,
Suite 600,
KITCHENER ON N2G 1B8**

Dear Mr. Doherty:

**Subject: City of Kitchener
Zoning Bylaw Amendment Application
ZBZ21/012/W/ES
400 Westwood Drive**

**Planning Opinion provided to:
Goodwin/Jaslinskas
Sahinovic**

In response to your request, I provide my Planning Opinion regarding the subject application to amend the City of Kitchener Zoning Bylaw 85-1. The Application was made by Douglas W. Stewart (IBI Group) on behalf of the Subject Property owner, Zakia Kardumovic.

In preparing this Planning Opinion, I have reviewed the following documents:

Application For Zoning By-Law Amendment - August 5, 2021

Planning Justification Report - August 5, 2021

City of Kitchener Official Plan

City of Kitchener Zoning Bylaw 85-1

Registry information.

As well, I reviewed aerial photography of the subject neighborhood and undertook a drive-by of the Subject Property and the neighborhood.

My planning opinion is based on the information at hand. My focus is on the Kitchener Official Plan and the Kitchener Zoning Bylaw. In my opinion, it is important to recognize that the municipal public interest is just as important as the provincial interest at this time.



Neighbouring Properties

The interested neighbors own the following properties in relation to the Subject Property:

located adjacent to the north at the corner of Westwood
located adjacent to the south

Proposed Development

The Subject Property is legally described as Part of Lots 1 and 2, Plan 1536; Part 1, Reference Plan 12471.

The Subject Property is located on the east side of Westwood Drive, south of Glasgow Street.

According to the Application, the Subject Property has a land area of 3,854 square metres (0.385 ha), with road frontage of 50.0 metres and a depth of 78.1 metres.

The Applicant proposes to create four (4) separate lots fronting on Westwood Drive, for residential purposes and to sever and convey the rear 0.179 hectare as a lot extension to 787 Glasgow Street. (The Planning Justification Report erred in stating the conveyance is to 787 Westwood).

The Application is to amend the Zoning Bylaw for the four proposed lots from "Residential Two R-2" to "Residential Four R-4 - Special" and to amend the proposed lot extension from "Residential Two R-2" to "Open Space P-2".

The future proposed severed lots are intended to have the following areas and frontages:

- Lot 1: 627.7 m² area with 15.3 metres frontage
- Lot 2: 477.3 m² area with 11.6 metres frontage
- Lot 3: 477.3 m² area with 11.6 metres frontage
- Lot 4: 470.1 m² area with 11.5 metres frontage

The Applicant proposes to vary the "R-4" zoning for Lot 1 by establishing a Minimum Rear Yard of 23.8 metres instead of 7.5 metres and for Lots 2, 3 and 4, a Minimum Rear Yard of 16.5 metres instead of 7.5 metres.

Neighboring Properties

Both of the properties of concern are zoned as "Residential Two R-2".

These two properties and the Subject Property were originally established in the late 1970s and were later reconfigured by consents. The area of the original subdivision plan consisted of four lots and now, within the same land area, there are five lots (Two on Glasgow, two on Westwood, and one on Dayman). The Applicant intends to further subdivide the original plan area and establish a total of eight lots Two on Glasgow, five on Westwood, and one on Dayman.



Planning Analysis

1. The Subject Property is designated as "Low Rise Residential" on Map 3 Land Use in the Kitchener Official Plan. The neighboring properties are located in the same designation. Section 15.D.3.8 of the Official Plan provides that "a full range of low density housing types" are accommodated in this Designation.
2. The Policy provides that the "maximum *net residential density*... will be 30 units per hectare."
3. The Applicant's Planner states on page 24 of the Planning Justification Report, that the net residential density within the "Low Rise Residential" Designation in the Kitchener Official Plan is 30 units per hectare. The Planner concludes that the Subject Property can be developed for 11 Lots. I disagree. This policy statement is correct, but the application of this density is misleading. This policy should not be applied to individual lots that are the subject of development applications. This net residential density must be applied to all lands within the area including half of the road rights-of-way.
4. I undertook a preliminary calculation of 11 existing Lots in the "R-2" Zone and in the "Low Rise Residential" Designation in the local area. The resulting net residential density is in the order of 2.24 units per hectare. If the townhouses located on the west side of Westwood and the smaller lots further south on Westwood are included in my calculation, the density is higher, but not close to reaching 30 uph.
5. The Applicant is applying for "R-4" zoning on the proposed 2,069 square metre retained lot. Without variances, this retained lot could be divided into 5 lots (2,069/235) with minimum lot frontage of 9 metres in "R-4". In "R-4", the development would consist of 5 single detached dwellings or 6 duplex lots, as-of-right.
6. I conclude that the expectation of 5 single-detached lots in this location is inappropriate in the context of the existing lot pattern in the Glasgow area.
7. An alternative form of infill development could zone the retained lot as "R-3". In this zone, 3 single detached dwelling Lots with a minimum lot width of 13.7 metres could be developed.
8. Historically, the existing "R-2" lots on Glasgow and Westwood are part of the same community. As-of-right, the Subject Property can be divided into two single-detached dwelling lots under the "R-2" Zone.
9. In my opinion, the intensification of the Subject Property (hypothetically from 2 to 3 lots) is good planning only if it zoned as "R-3". This is a reasonable transition from the "R-2" lots to the "R-4" lots located further south on Westwood.



10. In my analysis, I have not assessed physical impacts resulting from the intensification of the Subject Property. I am aware of the immediate concerns raised by the neighbours. If the City of Kitchener is considering the zoning amendment, I recommend that prior to any conclusion by staff and Council, the issues regarding lot grading and storm water management, including any changes in retaining walls, must be first understood and mitigated. As well, the historic woodland that has been fragmented by development needs to be carefully assessed in advance. The trees and the roots of trees on the Subject Property and on the neighboring properties are integral to the aesthetic, visual amenity in the neighborhood. Tree saving and enhancement of species also need to be firmly established prior to any consideration of the zoning application.
11. I caution the City of Kitchener to not amend the Zoning Bylaw, then later deal with the above impacts as site plan issues, without consultation with the neighbors in the community.

I am pleased to provide this independent and objective opinion with the expectation that Kitchener staff and Council will carefully consider the community planning implications arising from the proposed development in this application.

Yours truly,



Mark L. Dorfman, F.C.I.P., R.P.P.



TAB 4

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

CITY OF KITCHENER

The Committee of Adjustment held an electronic meeting this date, commencing at 10:00 a.m.

Present: D. Cybalski - Chair
B. McColl
J. Meader
S. Hannah
M. Kidd

Officials: J. von Westerholt, Senior Planner
S. Ryder, Traffic Planning Analyst
G. Stevenson, Senior Planner
C. Dumart, Planner
S. Goldrup, Committee Administrator
D. Saunderson, Secretary-Treasurer

MINUTES

Moved by B. McColl
Seconded by J. Meader

That the regular minutes of the Committee of Adjustment meeting held March 16, 2021, as circulated to the members, be accepted.

Carried

UNFINISHED BUSINESS:

CONSENT APPLICATION:

- | | |
|---------------------------|----------------------------------------------------------------------------------------|
| Submission No.: | B 2020-047 |
| Applicant: | Michael Krause |
| Property Location: | 50 Brookside Crescent |
| Legal Description: | Part Block O & Park Block 87, Plan 1334, being Parts 1 & 3 on Reference Plan 58R-20390 |

Appearances:

In Support: M. Krause
O. Scott

Contra: L. Geisel
C. Laderoute

Written Submissions: Neighbourhood Petition
C. Laderoute

The Committee was advised the applicant is requesting permission to sever a parcel of land on the westerly edge of the property (future municipal address 52-54 Brookside Crescent), having an approximate width of 16.2m, a depth of 33.5m and an area of 542.7 sq.m. The retained land will be irregular in shape having an approximate width of 35m, a depth of 43.5m and an area of 1523 sq.m. The severed lot is intended for a semi-detached dwelling.

The Committee considered Development Services Department report DSD-2021-23 dated March 5, 2021, recommending approval of this application, subject to the conditions outlined in the Report; as well as, Development Services Department report DSD-2021-55 dated April 12, 2021, which was a follow-up reported the requested from the deferral from the Committee's meeting on March 16, 2021.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated November 26, 2020, advising they have no objection to this application subject to the following condition:

1. Submission No.: B 2020-047 (Cont'd)

1. That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per new lot created.

Michael Krause and Owen Scott were in attendance in support of the subject application and staff recommendation.

Christine Laderoute and Luanne Geisel were in attendance in opposition to the subject application. C. Laderoute expressed concerns with the age of the smokehouse/shed noting she had provided newspaper articles for the Committee's consideration that help to corroborate the construction date, which is beyond what was identified in the Heritage Impact Assessment provided with the application. C. Laderoute stated additional concerns related to: the proposed height and setbacks of the semi-detached dwelling; concerns for on-street parking; and, the location of the fence between the proposed severed parcel and the property municipally addressed as 58 Brookside Crescent.

M. Krause stated he has tried to respond to the concerns of the neighbourhood, noting ultimately, he would rely on City approvals for what would be constructed on the proposed lot. M. Krause indicated through this process there have been false statements made about the dwelling constructed to the right of the subject property, noting when he completed that severance he sent a letter to the adjacent neighbours advising of this intentions related to that development. M. Krause noted the written submission provided by the neighbours related to the subject application include statements about that development that are factually inaccurate. M. Krause further advised he has done significant work since the March Committee of Adjustment to meeting to address the concerns of the neighbourhood and has proposed several changes including increasing the front yard setback of the proposed dwelling, as well as decreasing the size of the proposed lots. In response to comments related to the garden suite which is intended to be retained on the subject property, M. Krause stated in his opinion that building should have no relevance to the requested application.

G. Stevenson advised Planning staff held an electronic meeting with the neighbourhood as soon as elevation drawings were received. Discussions took place related to possible solutions or changes that may be required to address the concerns of the neighbourhood. Although all of the changes proposed by the applicant may not address the full limit of concerns raised, the applicant has proposed reducing the size of the lots, as well as the footprint of the building, and increasing the front yard setback more inline with the property municipally addressed as 58 Brookside Crescent. G. Stevenson further advised the building has also been staggered at the request of the City's Urban Design staff and reversed in orientation so the porch rather than the garage is adjacent to 58 Brookside Crescent.

In response to questions, G. Stevenson advised the applicant has expressed the desire to maintain the shed currently located at the rear of the proposed severed lot as Council at its most recent Planning & Strategic Initiatives Committee considered a report that would permit the use of Tiny Homes within the City's Zoning By-law. The applicant wishes to maintain the shed/garden suite as a small dwelling unit on the subject property.

Questions were raised regarding the condition outlined in the staff report related to the applicant requiring approval of the elevation drawings but he Director of Planning and whether it should be updated to include reference to elevation drawings circulated to the Committee this date. G. Stevenson stated if the Committee would like to provide additional direction related to the elevation drawings that condition could be amended, but ultimately the condition clearance should still be to the satisfaction of the Director of Planning as they are the only ones with the authority to provide that approval.

B. McColl advised he had done a site visit of the property and expressed concerns with the development that was constructed to the right of the subject property through the previous severance application and its compatibility with the neighbourhood. B. McColl noted the elevation drawings submitted for the new lot do seem more consistent with the neighbourhood. B. McColl indicated he was in support of the revised front yard setback and the proposed building being more staggered in relation to the adjacent property. B. McColl further advised he would have preferred to see additional information related to the shed and how it was constructed to possibly confirm the date its construction.

1. Submission No.: B 2020-047 (Cont'd)

In response to questions, L. Geisel advised she is still not satisfied with the subject application, regardless of the proposed changes suggested by the applicant.

In response to questions, G. Stevenson advised the setback of the proposed semi-detached dwelling would have a setback of 7.8m whereas the property municipally addressed as 58 Brookside Crescent currently has a setback of 7.5m which determined using the City's GIS mapping software.

M. Krause stated comments were made about the materials used to construct the shed, noting it has a newer cedar roof, parging, wiring, newer garage door and stonework which similar but not consistent with the original home. M. Krause stated he received a letter from C. Laderoute prior to the meeting this date and the letter suggests a personal and emotional attachment with a previous property owner and specific attributes of the property. M. Krause stated in his opinion the reasons that have been expressed by the neighbourhood should not prevent this project from moving forward.

J. Meader stated the comments made about the desire to retain the coach house at the rear of the proposed severed lot not being relevant, in her opinion is inaccurate. The proposed severance creates an irregular shaped lot, noting when the Committee considers a severance application the Planning Act has criteria outlined in Section 51 (24), which states "the shape and dimensions of the new lots, is one of the criteria that must be considered when approving a severance". J. Meader commented the purpose for maintaining that portion of the property would be to maintain additional living space in the rear yard of people's amenity space. J. Meader noted although staff are supportive of that proposed lots, she did still have some concern with the proposed lot fabrics.

S. Hannah stated he is in opposition with the subject application. S. Hannah noted the proposed lot severance is for the creation of one lot, theoretically someone could construct a single detached dwelling rather than the proposed semis. S. Hannah stated if the Committee approves the application the recommendation may need to be amended to approve the proposed depth of 31.69m which was included in the elevation drawings submitted to the Committee this date. S. Hannah stated it would be his preference to see a severance application that was the full depth of the property rather than retaining the coach house in the rear of the severance.

B. McColl advised he was in agreement with the comments from the previous Committee members, if the proposed lots included the whole depth of the property and the proposed guest cottage was removed then the footprint of the project could be setback approximately 12m from the property line. B. McColl indicated he was in agreement with staff and the proposed setback with 54 Brookside Crescent is almost inline with 58 Brookside Crescent. B. McColl stated he could support the application if the guest cottage was removed and the severance went the full depth of the property. With higher density targets, he would be in support of subject application.

M. Kidd stated the existing dwelling is aesthetically pleasing that should be retained. M. Kidd indicated he was in support of extending the use of the property and as long as the proposed dwelling was consistent in with the neighbourhood or even the farmhouse, there is balance that could be achieved.

D. Cybalski stated the Committee must take into consideration of lot fabric and how the proposed lots would suit with the adjacent properties. D. Cybalski generally when new lots are created the severance would not leave a remanent portion in the rear, that is not necessarily good planning.

In response to questions, G. Stevenson advised the R4 Zone permits a front yard setback of 4.5m for a porch and 6m for proposed garage with the required parking. G. Stevenson indicated the R4 Zoning does permit a semi-detached dwellings and if the Committee did consider approving the application the decision would need to be amended to reflect a depth of 31.69m to have greater separation between the dwelling.

The Chair noted the only matter before the Committee this date is a severance application, stating the applicant has proposed concessions to address the concerns of the neighbourhood noting the permitted Zoning would allow him to construct closer to the lot line than what is being proposed.

1. Submission No.: B 2020-047 (Cont'd)

S. Hannah noted he was leaning towards requesting a deferral, noting concerns with amending the Heritage Designation By-law to remove the severed property from the designation. S. Hannah further advised currently he was unable to support the size and shape of the lot as proposed, indicating the proposed elevations do not adequately address his concerns. S. Hannah stated he was hoping to see a setback on the left adjacent to 58 Brookside Crescent of 7.8m and 10.96m adjacent to the heritage dwelling. S. Hannah further advised he would prefer to see a severance going the entire depth of the property.

J. Meader stated if the Committee was considering a deferral of the application, from the comments previously stated from the Committee members, it would permit the applicant an opportunity to reconsider the size and shape of the proposed lot. From the comments expressed from the applicant it appears he is unwilling to amend his application to include the back portion of the property containing the garden suite.

S. Hannah stated he is not able to support this application as proposed.

B. McColl questioned whether the Committee was interested in a further deferral to review the front yard setback. S. Hannah indicated he was only willing to defer the application if the applicant was willing to revisit the size of the proposed severance.

M. Krause stated he was disappointed with some of the comments being expressed. M. Krause advised the garden suite which is proposed to be maintained has been occupied for 6-years. The unit has adequate parking on the subject property and the use of the dwelling will be permitted pending approval of the Zoning By-law amendment which addresses tiny homes. M. Krause stated he was not willing to consider the removal of the garden suite. M. Krause indicated he was reluctant to accept a deferral, but a premature decision of the Committee would be made if staff required additional information on the use of the garden suite.

B. McColl stated it appears there is some confusion on the current situation related to the garden suite at the rear of the proposed severance, one plan noting building as a shed, another plan noting it as a garden suite. B. McColl stated the applicant has accepted the option for a deferral for additional information to be provided.

B. McColl brought forward a motion to defer the subject application to get more clarification on the heritage aspect of the entire property and whether the front yard setbacks of the proposed dwelling could be more sympathetic to the adjacent properties.

G. Stevenson requested clarification on the scope of the deferral, noting specifically related to additional information related to the heritage of the property, a Heritage Impact Assessment was provided and considered by Heritage Kitchener in support of the application.

B. McColl stated he was referencing S. Hannah's comments related to the heritage of the entire property. B. McColl questioned whether modification would be required to update the heritage designation. G. Stevenson noted the condition would give the City the authority to amend the designation by-law to remove reference to the severed property within the designation. G. Stevenson stated if the committee was considering a deferral staff would require the full nature of the deferral and what additional information the Committee may require in advance of the May meeting. In response to further questions, G. Stevenson advised the heritage designation by-law addresses the home and the architectural style of the dwelling, it does not reference the shed or garage of having historical significance.

In response to questions, B. McColl indicated the garage, smokehouse and shed are of no historical value and that they were built to suit the style of the dwelling and they have not been substantiated to be heritage items. In regard to the comments from G. Stevenson related to the heritage designation B. McColl removed the request for additional heritage information from his motion to defer.

S. Hannah indicated he would like to see a revised site plan that would see setbacks that were more sympathetic to both 58 Brookside Crescent and 50 Brookside Crescent, as well as information related to the use of the garden shed.

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1. Submission No.: B 2020-047 (Cont'd)

B. McColl brought forward a motion to defer the subject application to get additional clarification on the garden suite and its current uses; as well as the front yard setback and whether they can be more sympathetic with the adjacent properties municipally addressed as 58 and 50 Brookside Crescent.

Moved by B. McColl
Seconded by M. Kidd

That the application of MICHAEL KRAUSE requesting permission to sever a parcel of land on the westerly edge of the property (future municipal address 52-54 Brookside Crescent), having an approximate width of 16.2m, a depth of 33.5m and an area of 542.7 sq.m. **BE DEFERRED to the May 18, 2021 Committee of Adjustment meeting** to get additional clarification on the garden suite and its current uses; as well as the front yard setback and whether they can be more sympathetic with the adjacent properties municipally addressed as 58 and 50 Brookside Crescent, on Part Block O & Park Block 87, Plan 1334, being Parts 1 to 3 on Reference Plan 58R-20390, 50 Brookside Crescent, Kitchener, Ontario.

Carried

NEW BUSINESS:

MINOR VARIANCE APPLICATION:

1. Submission No.: A 2021-031
Applicants: Varinder Purewal and Rajvinder (Bobbie) Chatha
Property Location: 660 Avondale Avenue
Legal Description: Lot 16 & Part Lot 17, Plan 349

Appearances:

In Support: J. O'Malley
V. Purewal
R. Chatha

Contra: D. & M. Reid E. Plach & R. Wallwork
J. Robinson T. Glover
B. Trotter F. Millard

Written Submissions: A. Stahlke G. Smith
D. & M. Reid R. Donaldson
J. Finney J. Robinson
J. McCormick M. Cadotte & E. McCarron
C. Boehmer S. Munroe
T. Glover B. Trotter
F. Millard C. Trotter
E. Plach & R. Wallwork

The Committee was advised the applicant is requesting permission to construct a single detached dwelling having a rear yard setback 4.7m rather than the required 7.5m. The existing dwelling will be demolished.

The Committee considered Development Services Department report DSD-2021-57 dated April 13, 2021 recommending deferral of the subject application to provide an opportunity for the owner to prepare and submit a satisfactory Tree Preservation / Enhancement Plan, in advance of a decision by the Committee of Adjustment.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

1. Submission No.: A 2021-031 (Cont'd)

Moved by B. McColl
 Seconded by S. Hannah

That the application of Varinder Purewal and Rashvinder Chatha requesting permission to construct a single detached dwelling having a rear yard setback 4.7m rather than the required 7.5m **BE DEFERRED to the May 18, 2021 Committee of Adjustment meeting** to allow additional time for the applicant to opportunity for the owner to prepare and submit a satisfactory Tree Preservation / Enhancement Plan, on Lot 16 & Part Lot 17, Plan 349, 660 Avondale Avenue, Kitchener Ontario.

Carried

UNFINISHED BUSINESS (CONT'D):

COMBINED APPLICATIONS:

1. Submission No.: B 2021-011 and A 2021-033
Applicant: Grand River Conservation Authority
Property Location: Fairway Road and Woolner Trail
Legal Description: Part of Lot 9 and 14, Registered Plan 591

Appearances:

In Support: K. Muir
 J. Passey

Contra: None

Written Submissions: D. Woolner
 L. Kotseff

The Committee was advised the applicant is requesting permission to sever a parcel of land that is approximately 6.92 hectares (17.1 acres) in size.

The Committee considered Development Services Department report DSD-2021-53 dated April 11, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated March 18, 2021, advising they have no objection to application B 2021-014 subject to the following conditions:

1. The owner/applicant is required to enter into an agreement with the Regional Municipality of Waterloo to complete a detailed environmental/stationary noise study prior to Site Plan approval for the severed lands and, if necessary, enter into a further supplementary agreement to secure implementation of the recommendations of the noise study.
2. Notwithstanding Regional Condition 1 above, that prior to final approval, the owner/applicant enter into an agreement with the Region of Waterloo for the severed lands, to include the following warning clause on all offers to purchase and/or rental agreements:
 - i. "Prospective purchasers and tenants are advised that the entire property comprising the severed lands are located within or in close proximity to one of the flight paths leading into and out of the Region of Waterloo International Airport and that directional lighting along this flight path may cause concern to some individuals".
3. That prior to final approval, the owner/applicant removes any easements no longer required on the severed and retained lands, to the satisfaction of the Region of Waterloo.

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1. Submission No.: B 2021-011 and A 2021-033 (Cont'd)

4. That prior to final approval, the owner/applicant enter into an agreement with the Region of Waterloo, to complete a Salt Management Plan for the severed lands prior to Site Plan approval.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with applications A 2021-033.

The Committee considered the report from the Grand River Conservation Authority, dated March 1, 2021 advising they have no concerns with the subject application.

The Chair noted a clerical error in the staff report, stating the approval should remove the request for a deferral from the Committee's decision this date. It was further noted the Comments from the Region of Waterloo and Grand River Conservation Authority (GRCA) should be included in the Committee's decision this date.

Kevin Muir and Jennifer Passy were in attendance in support of the subject application and staff recommendation.

Submission No.: B 2021-011

**Moved by J. Meader
Seconded by S. Hannah**

That the application of GRAND RIVER CONSERVATION AUTHORITY requesting permission to sever a vacant irregular shaped parcel at the corner of Fairway Road North and Old Zeller Drive having a width on Old Zeller Drive of approximately 159.862m and an area of 6.92 hectares, on Part of Lot 9 and 14, Registered Plan 591, Fairway Road and Woolner Trail, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall provide 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 sized 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.
2. The owner shall to enter into an agreement with the Regional Municipality of Waterloo to complete a detailed environmental/stationary noise study prior to Site Plan approval for the severed lands and, if necessary, enter into a further supplementary agreement to secure implementation of the recommendations of the noise study.
3. The owner shall enter into an agreement with the Region of Waterloo for the severed lands, to include the following warning clause on all offers to purchase and/or rental agreements:

"Prospective purchasers and tenants are advised that the entire property comprising the severed lands are located within or in close proximity to one of the flight paths leading into and out of the Region of Waterloo International Airport and that directional lighting along this flight path may cause concern to some individuals".
4. That the owner shall remove any easements no longer required on the severed and retained lands, to the satisfaction of the Region of Waterloo.
5. That the owner shall enter into an agreement with the Region of Waterloo, to complete a Salt Management Plan for the severed lands prior to Site Plan approval.
6. That the owner shall receive final approval of Minor Variance application A2021-033.
7. That the owner shall make satisfactory financial arrangements with the Grand River Conservation Authority (GRCA) for the application review fee.

It is the opinion of this Committee that:

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1. Submission No.: B 2021-011 and A 2021-033 (Cont'd)

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

Submission No.: A 2021-033

Moved by J. Meader
Seconded by S. Hannah

That the application of GRAND RIVER CONSERVATION AUTHORITY requesting permission for the severed land identified in Consent Application B 2021-011 intended for use by the Waterloo Catholic District School board to have a lot width of 150m rather than the required 300m; and, an area of 6.9 hectares rather than the required 40 hectares, on Part of Lot 9 and 14, Registered Plan 591, Fairway Road and Woolner Trail (Vacant Land), Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

NEW BUSINESS (CONT'D):

MINOR VARIANCE APPLICATIONS:

1.

Submission No.:	A 2021-019
Applicant:	Milestone Developments Inc.
Property Location:	30 Waterbow Trail
Legal Description:	Lot 59, Plan 58M-605

Appearances:

In Support: P. Haramis

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1. **Submission No.:** A 2021-019 (Cont'd)

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to construct a single detached dwelling having a southerly side yard abutting Valleybrook Drive of 4.1m rather than the required 4.5m; a southerly side yard abutting Valleybrook Drive for a non-enclosed porch of 2.74m rather than the required 3m; and, a driveway setback of 7.6m from the intersection of Waterbow Trail and Valleybrook Drive rather than the required 9m.

The Committee considered Development Services Department report DSD-2021-33 dated March 5, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with the subject application.

**Moved by B. McColl
Seconded by Mike Kidd**

That the application of MILESTONE DEVELOPMENTS INC requesting permission to construct a single detached dwelling having a southerly side yard abutting Valleybrook Drive of 4.1m rather than the required 4.5m; a southerly side yard abutting Valleybrook Drive for a non-enclosed porch of 2.74m rather than the required 3m; and, a driveway setback of 7.6m from the intersection of Waterbow Trail and Valleybrook Drive rather than the required 9m, on Lot 59, Plan 58M-605, 30 Waterbow Trail, Kitchener, Ontario, **BE APPROVED**.

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

2. **Submission No.:** A 2021-026
Applicants: Katrina Cove-Shannon
Property Location: 11 Whitney Place
Legal Description: Lot 260, Subdivision of Lot 17, German Company Tract

Appearances:

In Support: T. Bauman

Contra: None

Written Submissions: None

The Committee was advised the applicants are requesting permission to reconstruct the front porch on an existing single detached dwelling having an easterly side yard setback of 0.78m rather than the required 1.2m; a front porch setback of 2.64m rather than the required 4.7m; and, a 2.64m encroachment into the Driveway Visibility Triangle (DVT) whereas the By-law does not permit encroachments into the 4.5m DVT.

2. **Submission No.:** A 2021-026 (Cont'd)

The Committee considered Development Services Department report DSD-2021-056 dated April 13, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Moved by S. Hannah
Seconded by J. Meader

That the application of KATRINA COVE-SHANNON requesting permission to reconstruct the front porch on an existing single detached dwelling having an easterly side yard setback of 0.78m rather than the required 1.2m; a front yard setback of 2.64m rather than the required 4.7m; and, for the proposed porch to encroach into the Driveway Visibility Triangle (DVT) whereas the By-law does not permit encroachments into the 4.5m DVT, on Lot 260, Subdivision of Lot 17, German Company Tract, 11 Whitney Place, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

3. **Submission No.:** A 2021-027
Applicants: Milos Posavljak
Property Location: 573 Guelph Street
Legal Description: Lot 17, Plan 749

Appearances:

In Support: I. Cekic
M. Posavljak

Contra: None

Written Submissions: None

The Committee was advised the applicants are requesting permission to construct a semi-detached dwelling on a lot having a width of 14.96m rather than the required 15m; and, an easterly side yard setback of 0.94m and a westerly side yard setback of 0.91m rather than the required 1.2m.

The Committee considered Development Services Department report DSD-2021-19 dated April 9, 2021 recommending approval of the subject application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Ivana Cekic and Milos Posavljak were in attendance in support of the subject application. In response to questions I. Cekic indicated she was not aware this date of that windows would not be permitted in the side façade of the dwelling. S. Hannah noted if windows are preferred in the side yard the Building Code will require a side yard setback of 1.2m.

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3. **Submission No.:** A 2021-027 (Cont'd)

Moved by J. Meader
Seconded by B. McColl

That the application of MILOS POSAVLJAK requesting permission to construct a semi-detached dwelling on a lot having a width of 14.96m rather than the required 15m; and, an easterly side yard setback of 0.94m and a westerly side yard setback of 0.91m rather than the required 1.2m, on Lot 17, Plan 749, 573 Guelph Street, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

4. **Submission No.:** A 2021-028
Applicants: IIsedore Kautsky
Property Location: 11 Springdale Drive
Legal Description: Lot 5, Plan 1129

Appearances:

In Support: I. Kautsky
N. Kautsky

Contra: None.

Written Submissions: None.

The Committee was advised the applicants are requesting permission to have a home office in the basement of an existing single detached dwelling having one off-site employee whereas the By-law does not permit off-site employees; and, to 2 separately accessed off-street parking spaces rather than the required 3 separately accessed off-street parking spaces.

The Committee considered Development Services Department report DSD-2021-59 dated April 12, 2021 recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

IIsedore Kautsky and Nadine Kautsky were in attendance in support of the subject application. I. Kautsky provided an overview of the subject application, stating the employee that attends her home is her daughter who lives on the same street and walks to the subject property.

Questions were raised regarding the width of the driveway, J. von Westerholt noted the applicant would prefer not to widen the driveway, stating he need for the variance is to allow the reduction in one required parking space. The applicant would have required 3 off-street parking space and the property can only accommodate 2 off-street spaces.

4. Submission No.: A 2021-028 (Cont'd)

S. Hannah suggested and it was agreed that the deadline outlined in Condition 2 of the staff report should be June 1, 2022 rather than June 1, 2021 to allow additional time for the applicant to obtain their occupancy certificate.

Moved by S. Hannah
Seconded by B. McColl

That the application of ILSEDORE KAUTSKY requesting permission to have a home business (office for online sales) having one employee in an existing single detached dwelling to have 2 separately accessed off-street parking spaces rather than the required 3 separate off-street parking spaces, on Lot 5, Plan 1129, 11 Springdale Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. The owner shall obtain a Zoning (Occupancy) Certificate from the Planning Division.
2. That condition 1 above be completed by June 1, 2022. Any request for a time extension must be approved in writing by the Manager of Development Review (or designate) prior to completion date set out in this decision. Failure to complete the conditions will result in this approval becoming null and void.

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

5. **Submission No.:** A 2021-029
Applicant: Chris Coles
Property Location: 20 Munroe Street
Legal Description: Part Lot 19, Registered Plan 861

Appearances:

In Support: C. Coles

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to convert an existing single detached dwelling into a duplex having the required off-street parking located 1m from the property line rather than the required 6m.

The Committee considered Development Services Department report DSD-2021-44 dated April 9, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Chris Coles was in attendance in support of the application.

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5. Submission No.: A 2021-029 (Cont'd)

In response to questions, J. von Westerholt advised if the applicant is required to widen the driveway to accommodate the conversion of the garage, it would not necessarily necessitate the requirement to cut the curb. D. Seller stated if and when a property owner requests a driveway widening staff would review whether a curb cut was required and whether it would impact any boulevard trees, or street furniture etc.

S. Hannah brought a motion forward to approve the subject application, including a condition that the owner shall widen the driveway to accommodate 2-off street parking spaces to the satisfaction of the Director of Planning prior to the issuance of a building permit.

Moved by S. Hannah
Seconded by B. McColl

That the application of CHRISTOPHER NORMAN COLES requesting permission to convert an existing single detached dwelling into a duplex having the required off-street parking located 1m from the property line rather than the required 6m, on Part Lot 19, Registered Plan 861, 20 Munroe Street, Kitchener, Ontario, **BE APPROVED**, subject to the following condition:

1. That the owner shall widen the driveway to accommodate 2-off street parking spaces to the satisfaction of the Director of Planning prior to the issuance of a building permit.

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

6. Submission No.: A 2021-030
Applicants: 2441912 Ontario Inc.
Property Location: 80 Courtland Avenue East
Legal Description: Lot 191, Subdivision of Lot 17, German Company Tract

Appearances:

In Support: C. Lusty
A. Sinclair

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to convert the existing office building into a health office having a parking rate of 1 off-street parking space per 26 sq.m. of Gross Floor Area (GFA) rather than the required 1 off-street parking space per 15 sq.m. GFA.

The Committee considered Development Services Department report DSD-2021-45 dated April 9, 2021 recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

6. **Submission No.:** A 2021-030 (Cont'd)

Andrea Sinclair and Chris Lusty were in attendance in support of the subject application. A. Sinclair noting following a discussion and confirmation with City staff she requested Condition 1 of the staff recommendation be amended to note the requirement of a Stamp Plan B Site Plan approval, noting the wording could suggest full Site Plan approval being required.

J. von Westerholt indicated if the applicant has clarified that requirement, she indicated she had no concerns with amending the condition to specify Stamp Plan B Site Plan approval.

The Committee agreed to amend Condition 1 of the staff recommendation to indicate the requirement of a Stamp Plan B Site Plan approval.

Moved by B. McColl
Seconded by S. Hannah

That the application of 2441912 ONTARIO INC requesting permission to convert the existing office building into a health office having a parking rate of 1 off-street parking space per 26 sq.m. of Gross Floor Area (GFA) rather than the required 1 off-street parking space per 15 sq.m. GFA, on Lot 191, Subdivision of Lot 17, German Company Tract, 80 Courtland Avenue East, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain Stamp Plan B Site plan approval to the satisfaction of the Manager of Site Development and Customer Service.
2. That the owner shall obtain a Zoning (Occupancy) Certificate from the Planning Division to establish the Health Office/Clinic use on the property.
3. That the owner shall complete all conditions prior to June 1st, 2022. Any request for a time extension must be approved in writing by the Manager of Development Review (or designate), prior to the completion date set out in this decision. Failure to fulfill these conditions, will result in this approval becoming null and void.

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

M. Kidd left the meeting at this time.

7. **Submission No.:** A 2021-032
Applicants: Stephanie Catcher and George Chambers
Property Location: 81 Waterloo Street
Legal Description: Part Lot 382, Plan 378

Appearances:

In Support: S. Catcher

Contra: None

Written Submissions: None

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7. Submission No.: A 2021-032 (Cont'd)

The Committee was advised the applicant is requesting permission to construct a roof over an existing deck in the rear yard of a single detached dwelling having a rear yard setback of 4m rather than the required 7.5m.

The Committee considered Development Services Department report DSD-2021-48 dated April 8, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Stephanie Catcher were in attendance in support of the subject application and staff recommendation. In response to questions, S. Catcher stated the proposed covered deck will be one storey in height but will be fully enclosed with screens and a lock for added security on the property.

It was suggested and agreed that the Committee's decision this date include that the approval is for a 1-storey covered porch.

**Moved by S. Hannah
Seconded by J. Meader**

That the application of GEORGE PATRICK CHAMBERS and STEPHANIE DIANA CATCHER requesting permission to construct a 1-storey covered deck in the rear yard of a single detached dwelling having a rear yard setback of 4m rather than the required 7.5m, on Part Lot 382, Plan 378, 81 Waterloo Street, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

CONSENT APPLICATIONS

1. **Submission No.:** B 2021-015
Applicants: Novacore (83 Elmsdale Drive) Inc,
Property Location: 83 Elmsdale Drive
Legal Description: Part Lots 3 & 4, Municipal Compiled Plan 1021, Part Lot 1, Municipal Compiled Plan 1022 and Part Lot 3 Municipal Compiled Plan 1026

Appearances:

In Support: T. Collins

Contra: None

Written Submissions: None

1. **Submission No.:** B 2021-015 (Cont'd)

The Committee was advised the applicant is requesting permission to grant three easements for sanitary services available along the Ottawa Street property frontage to facilitate development; Easement 1 on the plan submitted with the application being irregular in shape having a width of 5m, an overall length of 152.3m and an area of 761.3 s.m. in favour of Parcel C; Easement 2 on the plan submitted with the application having a width of 5m, a length of 5.5m and an area of 27.5 sq.m. in favour of Parcels C and D; and, Easement 3 having a width of 5m, a length of 161.1m and an area of 805.6 sq.m. in favour of Parcel D. The property was previously subject to Consent applications which created the parcels and established additional easements.

The Committee considered Development Services Department report DSD-2021-49 dated April 8, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 9, 2021 advising they have no concerns with this application.

Moved by S. Hannah
Seconded by B. McColl

That the application of NOVACORE (83 ELMSDALE DRIVE) INC. requesting permission to grant three easements for sanitary services available along the Ottawa Street property frontage to facilitate development; Easement 1 on the plan submitted with the application being irregular in shape having a width of 5m, an overall length of 152.3m and an area of 761.3 s.m. in favour of Parcel C; Easement 2 on the plan submitted with the application having a width of 5m, a length of 5.5m and an area of 27.5 sq.m. in favour of Parcels C and D; and, Easement 3 having a width of 5m, a length of 161.1m and an area of 805.6 sq.m. in favour of Parcel D, on Part Lots 3 & 4, Municipal Compiled Plan 1021, Part Lot 1, Municipal Compiled Plan 1022 and Part Lot 3 Municipal Compiled Plan 1026, 83 Elmsdale Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the Transfer Easement document required to create the Easement being approved herein shall include the following and shall be approved by the City Solicitor:
 - a. a clear and specific description of the purpose of the Easement and of the rights and privileges being granted therein (including detailed terms and/or conditions of any required maintenance, liability and/or cost sharing provisions related thereto).
 - b. a clause/statement/wording confirming that the Easement being granted shall be maintained and registered on title in perpetuity and shall not be amended, released or otherwise dealt with without the express written consent of the City.
4. That the owner shall provide a satisfactory Solicitor's Undertaking to register the approved Transfer Easement(s) and to immediately thereafter provide copies thereof to the City Solicitor be provided to the City Solicitor.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.

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1. **Submission No.:** B 2021-015 (Cont'd)

3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

2. **Submission No.:** B 2021-016
Applicants: Revalue Properties Inc.
Property Location: 83 Second Avenue
Legal Description: Part of Block "B", Registered Plan 254

Appearances:

In Support: B. Jokanovic

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m. The retained land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m. The existing dwelling will be demolished.

The Committee considered Development Services Department report DSD-21-052 dated April 9, 2021 recommending approval of this application, subject to the conditions outlined in the report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 9, 2021 advising they have no concerns with this application, subject to the following conditions:

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per new lot created.
- 2) That prior to final approval, the owner/applicant enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a) The dwelling will be fitted with 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 prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
 - c) The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:

2. Submission No.: B 2021-016 (Cont'd)

- i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic Highway 7/8 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)."*

Boban Jokanovic was in attendance in support of the subject application and staff recommendation.

The Chair requested the Regional Conditions be included in the Committees decision this date. It was further suggested and agreed that Condition 10 of the staff report be amended to reference the demolition of a single detached dwelling rather than "a portion of the detached dwelling".

Moved by B. McColl
Seconded by J. Meader

That the application of REVALUE PROPERTIES INC requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m. The retained land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m., on Part of Block "B", Registered Plan 254, 83 Second Avenue, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner shall pay to the City of Kitchener a cash-in-lieu contribution for park dedication on the severed parcel equal in the amount of \$3785.80.
4. That the owner shall make financial arrangements to the satisfaction of the City's Engineering Division for the installation of any new service connections to the severed and/or retained lands.
5. That the owner shall ensure 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 Engineering Division.
6. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
7. That the owner shall submit a complete Development and Reconstruction As-recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.

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2. Submission No.: B 2021-016 (Cont'd)

8. That the owner shall provide Engineering staff with confirmation that the basement elevation 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 to the satisfaction of the Director of Engineering Services.
9. That the owner shall enter into an agreement with the City of Kitchener to be prepared by the City Solicitor and registered on title of the severed and retained lands which shall include the following:
 - a) That the owner shall prepare a Tree Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning and the Director of Operations, and where necessary, implemented prior to any grading, tree removal or the issuance of any building permits. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation (including street trees) to be preserved.
 - 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 Planning and the Director of Parks and Cemeteries.
 - c) That the Owner ensures any boulevard trees identified by the City for retention are protected during construction to the satisfaction of the City's Director of Parks and Cemeteries and the City's Director of Planning. That prior to the issuance of any building permit, the Owner makes satisfactory arrangements financial or otherwise for any relocation/removal of any existing boulevard trees adjacent to the subject property to the satisfaction of the City's Parks and Cemeteries.
10. That the owner shall obtain a demolition permit for the existing single detached dwelling proposed to be demolished, to the satisfaction of the Chief Building Official.
11. That the owner shall enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a) The dwelling will be fitted with 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 prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
 - c) The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
 - i. "The purchasers / tenants are advised that sound levels due to increasing road traffic Highway 7/8 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)."
12. That the owner shall submit the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

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2. Submission No.: B 2021-016 (Cont'd)

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

3. **Submission No.:** B 2021-017
Applicant: 2611601 Ontario Inc.
Property Location: 82 Pattandon Avenue
Legal Description: Part Lots 14 & 15, Registered Plan 384

Appearances:

- | | | |
|-------------|---------------|-------------|
| In Support: | J. Hale | |
| Contra: | J. Lazarte | J. Steckley |
| | C. & G. Rito | Z. Harvey |
| | D. Hunsperger | |

Written Submissions: B. Pejanovic

The Committee was advised the applicant is requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m. The retained land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m. The existing dwelling will be demolished.

The Committee considered Development Services Department report DSD-2021-47 dated April 9, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated April 9, 2021, advising they have no objection to this application subject to the following conditions:

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per new lot created.
- 2) That prior to final approval, the owner/applicant enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:

3. Submission No.: B 2021-017 (Cont'd)

- a. The dwelling will be fitted with 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. The exterior walls (eastern and northern walls) facing the railway will be constructed with brick veneer (EW5) or acoustical equivalent.
- c. That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
- d. The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
 - i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic on Ottawa Street North, local municipal streets, and rail noise from CN Railway 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)".*
 - ii. *"This unit has supplied with central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Region of Waterloo and the Ministry of the Environment, Conservation and Parks."*
 - iii. *"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."*

Janelle Hale was in attendance in support of the application and the staff recommendation.

Julieta Lazarte was in attendance in opposition to the application, expressing concerns that the property was going to be developed with a 4-unit multi-residential dwelling. In response to the comments, J. Hale advised the application is proposing to create one new lot for the construction of semi-detached dwellings.

Jeff Steckley addressed the Committee in opposition to the application. J. Steckley advised although the R5 Zone permits semi-detaching dwellings, this would be the first one constructed on the street and it would set a precedence for future development of this nature. J. Steckley noted they are located within a Residential Intensification in Established Neighbourhoods Study (RIENS) area and questioned how the study would protect them from development, indicating the proposed severance will significantly alter the street.

In response to questions, J. von Westerholt advised the R5 Zoning does permit semi-detached dwellings as a permitted use. The proposed lots fully conform with the Zoning by-laws and the proposed setbacks of the new dwelling would be inline with the other homes on the street. J. Steckley questioned whether there was a threshold ratio for applications that would be considered in the future. The Chair noted if the Zoning permits the use, market demand would likely dictate future development on the street.

Christine & George Rito were in attendance in opposition of the application. C. Rito noted she concurred with the comments from J. Steckley. C. Rito questioned whether the proposed garages would be required to consistent with the existing streetscape.

3. Submission No.: B 2021-017 (Cont'd)

J. von Westerholt stated the property is located within a RIENS neighbourhood, stating the proposed garage would be required to be located behind the principle facade. In response to questions, J. Hale indicated they have not yet started the design process for the proposed semi-detached dwelling, commenting they would be opening to listening to some suggestions of the neighbourhood.

Zoe Harvey addressed the Committee in opposition to the application, expressing concerns with: safety of the neighbourhood; the possible eviction of the tenants moving in May 2021; and, the noise from the construction. Z. Harvey expressed further concerns with the timing of the meeting, noting it was not accessible to all residents.

Deb Hunsperger was in attendance in opposition to the application. D. Hunsperger expressed concerns with: on-street parking, safety specifically related to emergency response times and traffic; as well as, the possible loss of the neighbourhood family appeal.

In response to questions, D. Seller this is the first he had received a complaint related to safety for the subject the street. D. Seller indicated on-street parking is permitted on both sides of the street, noting specifically with snow events it was typical that a street would narrow in size due to the snow. D. Seller indicated he could not speak to the accessibility of the street related to emergency response. D. Seller further advised the proposed dwelling would be required to provide off-street parking spaces for the units, likely those spaces would be located within a garage.

J. Meader stated all the concerns received this date from the area residents do not directly relate to the subject application, noting concerns for tenants or noise are out the Committee's authority. J. Meader indicated the property owner could demolish and reconstruct the dwelling and would not require any approvals from the Committee. Comments related to traffic and parking are existing conditions that would not be exacerbated by one additional dwelling unit. J. Meader further advised in her opinion, the application supports the provincial policy statements for intensification.

S. Hannah advised he was sympathetic to the neighbourhood, the acknowledge the concerns related to precedence, indicating the Zoning on the street permits this type of development. S. Hannah further advised he was in agreement with the comments made by J. Meader.

**Moved by J. Meader
Seconded by S. Hannah**

That the application of 2611601 ONTARIO INC requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m. The retained land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m., on Part Lots 14 & 15, Registered Plan 384, 82 Pattandon Avenue, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner shall pay to the City of Kitchener a cash-in-lieu contribution for park dedication on the severed parcel equal in the amount of \$3,505.20.
4. That the owner shall make financial arrangements to the satisfaction of the City's Engineering Division for the installation of any new service connections to the severed and/or retained lands.

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3. **Submission No.: B 2021-017 (Cont'd)**
5. That the owner shall ensure 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 Engineering Division.
 6. That the Owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
 7. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
 8. That the owner shall provide Engineering staff with confirmation that the basement elevation 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 to the satisfaction of the Director of Engineering Services.
 9. That the owner shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the two lots.
 10. That the owner shall enter into an agreement with the City of Kitchener to be prepared by the City Solicitor and registered on title of the severed and retained lands which shall include the following:
 - a. That prior to any grading, servicing or the application or issuance of a building permit, the owner shall submit a plan, prepared by a qualified consultant, to the satisfaction and approval of the City's Director of Planning showing:
 - i. the proposed location of all buildings (including accessory buildings and structures), decks and driveways;
 - ii. the location of any existing buildings or structures that are to be removed or relocated;
 - iii. the proposed grades and drainage;
 - iv. the location of all trees to be preserved, removed or potentially impacted on or adjacent to the subject lands, including notations of their size, species and condition;
 - v. justification for any trees to be removed; and
 - vi. outline tree protection measures for trees to be preserved; and
 - b. Any alteration or improvement to the lands including grading, servicing, tree removal and the application or issuance of any building permits shall be in compliance with the approved plan. Any changes or revisions to the plan require the approval of the City's Director of Planning.
 11. That the owner shall submit the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
 12. That the owner shall enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a. The dwelling will be fitted with 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. The exterior walls (eastern and northern walls) facing the railway will be constructed with brick veneer (EW5) or acoustical equivalent.

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3. **Submission No.:** B 2021-017 (Cont'd)

- c. That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
- d. The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
 - i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic on Ottawa Street North, local municipal streets, and rail noise from CN Railway 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)".*
 - ii. *"This unit has supplied with central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Region of Waterloo and the Ministry of the Environment, Conservation and Parks."*
 - iii. *"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future*

including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."

It is the opinion of this Committee that:

- 1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
- 2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
- 3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

- 2. **Submission No.:** B 2021-018 to B 2021-020
Applicants: ELEV8 Properties Inc.
Property Location: 942 Doon Village Road
Legal Description: Part Lot 2, Biehn's Tract

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

Appearances:

In Support: S. O' Neill
S. Patterson

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to create 3 lots and retain 1 for residential development. All four of the lots are proposed to have access on Doon Mills Drive. The proposed lots will have the following dimensions:

B 2020-018 - (Severed Lot 1)

Access Doon Mills Drive
Width - 13.716m
Depth - 70.7m
Area - 918.4 sq.m

B 2020-019 - (Severed Lot 2)

Access Doon Mills Drive
Width - 13.716m
Depth - 70.7m
Area - 909.4 sq.m

B 2020-020 - (Severed Lot 3)

Access Doon Mills Drive
Width - 13.716m
Depth - 70.76m
Area - 909.6 sq.m

Retained Lot

Access Doon Mills Drive
Width - 19.695m
Depth - 70.76m
Area - 1306.6 sq.m

The Committee considered Development Services Department report DSD-2021-54 dated April 11, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated April 9, 2021, advising they have no objection to this application subject to the following conditions:

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per new lot created.
- 2) That prior to final approval, the owner/applicant complete an Environmental Noise Study and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise assessment attenuation measures, all to the satisfaction of the Region of Waterloo.

Scott Patterson and Sean O'Neill were in attendance in support of the applications. S. Patterson requested the Committee revising Condition 3 of the staff recommendation, noting the wording as proposed when applied to all three decisions could require the application to pay \$18K per severance, whereas the intention is that the cash-in-lieu contribution is noted is an accumulated total. S. Patterson further advised the Region of Waterloo has requested a Noise Study, noting he attempted to reach out to the Region in advance of the meeting but did not receive a response as of yet. S. Patterson indicated a previous severance application was approved by the Committee for 518 Bridgeport Road, which fronts onto a Regional road and is in close proximity to the expressway and a Noise Study was not requested in that instance. S. Patterson stated impacts of noise in that instance are likely greater than in this location and requested consideration be given to amending the condition to read "That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo" which would leave greater related to environmental noise that the Region could request a study, or could only require a Noise warning agreement", noting it would give some flexibility to the Region to request a Noise Study or an noise warning agreement.

It was suggested and agreed that the proposed amendments related to parkland dedication and the Environmental Noise condition be revised as requested. It was further suggested by S. Hannah and agreed that an additional condition be added to the Committee's decision this date require the owner to receive demolition approval for the existing dwelling prior to the severance of the lots.

2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)**Submission No.: B 2021-018****Moved by S. Hannah****Seconded by B. McColl**

That the application of ELEV8 PROPERTIES INC. requesting permission to sever a parcel of land identified as Severed Parcel 1 on the plan submitted with the application having a width on Doon Mills Drive of 13.716m, a depth of 70.7m and an area of 918.4 sq.m, on Part Lot 2, Biehn's Tract, 942 Doon Village Road, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner pays to the City of Kitchener a cash-in-lieu contribution for park dedication for a total accumulated amount of \$18,928.08 for the severed parcels identified in Consent Applications B 2021-018, B 2021-019 and B 2021-020.
4. That the Owner shall prepare Street Tree Management Plan (STMP), stamped by a certified Landscape Architect, in accordance with Section M of the Development Manual, to satisfaction of the City's Director of review by Parks and Cemeteries.
5. That the Owner makes financial arrangements to the satisfaction of the City's Engineering Division for the installation of any new service connections to the severed and/or retained lands.
6. That the owner shall ensure 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 Engineering Division in Consultation with the City's Director of Transportation Services.
7. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
8. That the owner shall prepare a Grading Plan for the severed and retained lands in accordance with the City's Development Manual, to be approved by the City's Director of Engineering in consultation with the City's Director of Planning.
9. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
10. That the owner shall provide Engineering staff with confirmation that the basement elevation 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 to the satisfaction of the Director of Engineering Services.
11. The owner shall prepare a Tree Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area, and vegetation to be preserved.

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

12. The owner shall enter into a modified subdivision agreement with the City of Kitchener to be prepared by the City Solicitor to the satisfaction of the City's Director of Planning, and registered on title of the Retained and Severed lands. Said agreement shall include the following conditions:

I. *Prior to Grading, Tree Removal, or Issuance of any Building Permits, whichever shall occur first:*

a) *The Owner shall implement all approved measures for the protection of trees as approved in the Tree Preservation/Enhancement Plan (where applicable) and to provide written certification from the Owner's Environmental Consultant to the City's Director of Planning that all protection measures have been implemented and inspected, in accordance with the City's Tree Management Policy. No changes to the said plans shall be granted, except with prior approval from the City's Director of Planning.*

II. *Prior to the Issuance of any Building Permits*

b) *The Owner shall obtain approval of a Lot Grading Control Plan showing the required elevation of each corner of each lot for the severed and retained lands and the required elevation(s) of the building site as well as the required direction flow of surface drainage which must be approved by the CITY'S Director of Engineering Services, and must conform to the approve Tree Management Plan, overall Grading Plan, and Street Tree Management Plan.*

In addition to the conditions noted above, the modified subdivision agreement shall contain language to address maintenance and access for any shared driveways, if proposed.

13. That the owner shall submit the applicant consent review fee of \$350.00 per new lot created to the Region of Waterloo.

14. That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo.

15. That the owner shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the lots.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)**Submission No.: B 2021-019**

**Moved by S. Hannah
Seconded by B. McColl**

That the application of ELEV8 PROPERTIES INC. requesting permission to sever a parcel of land identified as Severed Parcel 2 on the plan submitted with the application having a width on Doon Mills Drive of 13.716m, a depth of 70.7m and an area of 909.4 sq.m, on Part Lot 2, Biehn's Tract, 942 Doon Village Road, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner pays to the City of Kitchener a cash-in-lieu contribution for park dedication for a total accumulated amount of \$18,928.08 for the severed parcels identified in Consent Applications B 2021-018, B 2021-019 and B 2021-020.
4. That the Owner shall prepare Street Tree Management Plan (STMP), stamped by a certified Landscape Architect, in accordance with Section M of the Development Manual, to satisfaction of the City's Director of review by Parks and Cemeteries.
5. That the Owner makes financial arrangements to the satisfaction of the City's Engineering Division for the installation of any new service connections to the severed and/or retained lands.
6. That the owner shall ensure 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 Engineering Division in Consultation with the City's Director of Transportation Services.
7. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
8. That the owner shall prepare a Grading Plan for the severed and retained lands in accordance with the City's Development Manual, to be approved by the City's Director of Engineering in consultation with the City's Director of Planning.
9. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
10. That the owner shall provide Engineering staff with confirmation that the basement elevation 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 to the satisfaction of the Director of Engineering Services.
11. The owner shall prepare a Tree Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area, and vegetation to be preserved.

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

12. The owner shall enter into a modified subdivision agreement with the City of Kitchener to be prepared by the City Solicitor to the satisfaction of the City's Director of Planning, and registered on title of the Retained and Severed lands. Said agreement shall include the following conditions:

I. Prior to Grading, Tree Removal, or Issuance of any Building Permits, whichever shall occur first:

a) The Owner shall implement all approved measures for the protection of trees as approved in the Tree Preservation/Enhancement Plan (where applicable) and to provide written certification from the Owner's Environmental Consultant to the City's Director of Planning that all protection measures have been implemented and inspected, in accordance with the City's Tree Management Policy. No changes to the said plans shall be granted, except with prior approval from the City's Director of Planning.

II. Prior to the Issuance of any Building Permits

c) The Owner shall obtain approval of a Lot Grading Control Plan showing the required elevation of each corner of each lot for the severed and retained lands and the required elevation(s) of the building site as well as the required direction flow of surface drainage which must be approved by the CITY'S Director of Engineering Services, and must conform to the approve Tree Management Plan, overall Grading Plan, and Street Tree Management Plan.

In addition to the conditions noted above, the modified subdivision agreement shall contain language to address maintenance and access for any shared driveways, if proposed.

13. That the owner shall submit the applicant consent review fee of \$350.00 per new lot created to the Region of Waterloo.
14. That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo.
15. That the owner shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the lots.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

Submission No.: B 2021-020

Moved by S. Hannah
Seconded by B. McColl

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

That the application of ELEV8 PROPERTIES INC. requesting permission to sever a parcel of land identified as Severed Parcel 3 on the plan submitted with the application having a width on Doon Mills Drive of 13.716m, a depth of 70.7m and an area of 909.6 sq.m, on Part Lot 2, Biehn's Tract, 942 Doon Village Road, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner pays to the City of Kitchener a cash-in-lieu contribution for park dedication for a total accumulated amount of \$18,928.08 for the severed parcels identified in Consent Applications B 2021-018, B 2021-019 and B 2021-020.
4. That the Owner shall prepare Street Tree Management Plan (STMP), stamped by a certified Landscape Architect, in accordance with Section M of the Development Manual, to satisfaction of the City's Director of review by Parks and Cemeteries.
5. That the Owner makes financial arrangements to the satisfaction of the City's Engineering Division for the installation of any new service connections to the severed and/or retained lands.
6. That the owner shall ensure 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 Engineering Division in Consultation with the City's Director of Transportation Services.
7. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
8. That the owner shall prepare a Grading Plan for the severed and retained lands in accordance with the City's Development Manual, to be approved by the City's Director of Engineering in consultation with the City's Director of Planning.
9. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
10. That the owner shall provide Engineering staff with confirmation that the basement elevation 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 to the satisfaction of the Director of Engineering Services.
11. The owner shall prepare a Tree Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area, and vegetation to be preserved.
12. The owner shall enter into a modified subdivision agreement with the City of Kitchener to be prepared by the City Solicitor to the satisfaction of the City's Director of Planning, and registered on title of the Retained and Severed lands. Said agreement shall include the following conditions:

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

I. *Prior to Grading, Tree Removal, or Issuance of any Building Permits, whichever shall occur first:*

a) *The Owner shall implement all approved measures for the protection of trees as approved in the Tree Preservation/Enhancement Plan (where applicable) and to provide written certification from the Owner's Environmental Consultant to the City's Director of Planning that all protection measures have been implemented and inspected, in accordance with the City's Tree Management Policy. No changes to the said plans shall be granted, except with prior approval from the City's Director of Planning.*

II. *Prior to the Issuance of any Building Permits*

d) *The Owner shall obtain approval of a Lot Grading Control Plan showing the required elevation of each corner of each lot for the severed and retained lands and the required elevation(s) of the building site as well as the required direction flow of surface drainage which must be approved by the CITY'S Director of Engineering Services, and must conform to the approved Tree Management Plan, overall Grading Plan, and Street Tree Management Plan.*

In addition to the conditions noted above, the modified subdivision agreement shall contain language to address maintenance and access for any shared driveways, if proposed.

- 13. That the owner shall submit the applicant consent review fee of \$350.00 per new lot created to the Region of Waterloo.
- 14. That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo.
- 15. That the owner shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the lots.

It is the opinion of this Committee that:

- 1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
- 2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
- 3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

2. Submission No.: B 2021-021 to B 2021-023
Applicants: Adam & Tracy Szuba and Roberto Drelini
Property Location: 654 Rockway Drive
Legal Description: Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347

Appearances:

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2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

In Support: D. Galbraith

Contra:	T. McCrabb	H. & B. Woodley
	S. & P. Hartigan	S. Jones
	P. & C. Berry	S. & J. Francis
	B. Hotton	M. & C. McFarlane

Written Submissions:	C. & J. Axler	B. Voigt
	P. Rath	S. Hartigan
	S. Francis	P. Schreiter
	P. & C. Berry	M. Cameron
	B. Hooton	M. McFarlane
	H. Woodley	R. Gurney
	S. & M. Jones	

The Committee was advised the applicant is requesting permission to create 3 lots and retain 1 for the construction of two semi-detached dwellings. The proposed lots will have the following dimensions:

Retained Parcel - (Parcel A)

Width - 8.38m
Depth - 32.61m
Area - 263 sq.m

B 2021-021 - (Parcel B)

Width - 8.38m
Depth - 32.61m
Area - 263 sq.m

B 2021-022 - (Parcel C)

Width - 8.38m
Depth - 32.62m
Area - 263 sq.m

B 2021-023 - (Parcel D)

Width - 8.38m
Depth - 32.61m
Area - 263 sq.m

The Committee considered Development Services Department report DSD-2021-50 dated April 8, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated April 9, 2021, advising they have no objection to this application subject to the following conditions:

- 1) That prior to final approval, the owner/applicant enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a. The dwelling units(s) must be installed with air-ducted heating and ventilation system, suitably sized and designed with provision of adding central air conditioning.
 - b. The dwelling unit(s) on the proposed severed and retained lands will be registered with the following noise warnings clauses on title:
 - i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic on King Street East (RR #08) / Charles Street 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)".*
 - ii. *"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)".*
 - c. That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.

Dave Galbraith, IBI Group, was in attendance in support of the subject application and the staff recommendation.

2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

Tim McCrabb, Heather & Bruce Woodley, Stewart Jones, Paul & Christine Berry, Sarah & James Francis, Bob Hooten and Meredith & Chris McFarlane were in attendance in opposition to the application.

Sharon Hartigan addressed the Committee on opposition to the subject application. S. Hartigan advised she resides at a property on Rockway Drive, the street borders the Rockway Golf Course and Rockway Gardens. S. Hartigan noted the area residents were disappointed to learn about the applications and that the proposed severances are in compliance with the current Zoning regulations on the street. S. Hartigan commented the applications do not take into consideration the adjacent properties or the neighbourhood, indicating in her opinion it is not good intensification or compatible with Rockway Drive. S. Hartigan further advised if approved she will be required to landscape her backyard to protect her amenity space. S. Hartigan requested the Committee consider deferring the applications to allow a further review of the information outlined in the planning report.

Phil Hartigan stated he was in opposition to the application. P. Hartigan stated the staff report includes comments about being satisfied with the shape of the lots, the desirability and compatibility with the surrounding community, indicating the neighbourhood is comprised of single, semi and multi use dwellings. P. Hartigan advised the residents disagree with these statements, indicating the street is comprised of single detached homes constructed between 1935 and 1953, noting there are no semi-detached dwellings or duplexes. P. Hartigan advised the properties on the street all have 60 ft frontages and the proposed severances would sever a lot from 110 ft wide to four lots having 19 ft frontages. P. Hartigan stated in his opinion the applications contravenes the policies within the City's Official Plan and would have adverse impacts on the Rockway Gardens Cultural Heritage Landscape. P. Hartigan requested a deferral of the application to thoroughly examine the heritage significance of the area, noting the applications are not compatible with Rockway Drive.

The Chair expressed comments that he was surprised not to see additional comments from Heritage Planning staff due to the proximity to Rockway Gardens and the significance of the area. The Chair expressed some concern on how the proposed lots would blend in with the existing neighbourhood.

J. Meader indicated she shared similar concerns to the Chair, stating she was not in support of the proposed applications. J. Meader indicated when reviewing a consent application the Committee must consider a policy within the Official Plan that states "application for consents will only be granted where the lots reflect the general scale and character of the established development pattern of the surrounding land taking into consideration lot frontages, areas and configurations." Following review of the staff report, J. Meader stated she did not see any analysis from the Planning staff or from the Applicants planner to support that policy. Reviewing the location map of the area and reviewing the severance sketch it is completely different from what is surrounding the subject property. J. Meader further advised the street is unique, with a semi-rural cross section and large lots and although she acknowledge development was occurring closer to the intersection, the proposal was not appropriate for the subject lands.

In response to questions, D. Galbraith advised the applicant to date is only proposing the severance of the lots, they have yet to prepare elevation drawings for the proposed semis. D. Galbraith indicated the design would be informed by the character of the neighbourhood as well as the Residential Intensification in Established Neighbourhoods Study (RIENS), indicating the dwellings are proposed to have front yard setbacks of 8.5m which is compatible with the existing homes on the street. D. Galbraith advised the architectural character of the dwellings has not yet been determined.

In response to questions related to the Cultural Heritage Landscape (CHL) study, J. von Westerholt advised the CHL are for Rockway Gardens applies to a portion of the street and the golf course. J. von Westerholt stated the CHL is not a heritage designation, although the area was identified, further work would be required to list or designate the area as significant.

Questions were raised regarding the R4 Zoning and when Zoning was updated to permit semi-detached dwellings. J. von Westerholt advised the R4 Zoning has always permitted semi-detached dwellings. C. Dumart advised the current Zoning for the street has been in place since the 1980's.

2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

C. Dumart advised the property is comprised as a double wide lot and would have a similar footprint if the lot was severed in half and single detached dwellings were constructed. C. Dumart further advised the applicant is proposing to further subdivide the semi-detached dwellings so they can each half can be held in separate ownership.

The Chair noted he did not really support the comments of staff related to similar building footprints between the semi-detached dwellings and single detached dwellings, noting he could possibly support two single detached dwellings. The Chair noted semi-detached dwellings are not similar to single detached dwellings.

C. Dumart stated the application does not include a request to add semi-detached dwelling as a permitted use.

S. Hannah stated when reviewing the application, it is clear that the property is a double wide lot. The application through the proposal is tying to make use of the existing Zoning. S. Hannah stated in his opinion the street should be a heritage conservation district and the zoning should only permit single detached dwellings. S. Hannah further advised without knowing what is proposed to be constructed on the property he is currently opposed to the applications. S. Hannah commented the character of the neighbourhood is important in this instance, stating they could possibly construct semi-detached dwellings that are compatible with the adjacent properties, stating a contemporary design in this instance would have an adverse impact on the streetscape.

B. McColl brought forward a motion to refuse the subject applications based on the opinion that the development is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Submission No.: B 2021-021

**Moved by B. McColl
Seconded by J. Meader**

That the application of ADAM DOUGLAS SZUBA, TRACY MARY SZUBA and ROBERTO DRELINI requesting permission to sever a parcel of land identified as Parcel 'B' on the plan submitted with the application having a width of 8.38m, a depth of 32.61m and an area of 263 sq.m., on Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347, 654 Rockway Drive, Kitchener, Ontario, **BE REFUSED.**

It is the opinion of this Committee that the lot to be created through this application is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

Submission No.: B 2021-022

**Moved by B. McColl
Seconded by J. Meader**

That the application of ADAM DOUGLAS SZUBA, TRACY MARY SZUBA and ROBERTO DRELINI requesting permission to sever a parcel of land identified as Parcel 'C' on the plan submitted with the application having a width of 8.38m, a depth of 32.62m and an area of 263 sq.m., on Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347, 654 Rockway Drive, Kitchener, Ontario, **BE REFUSED.**

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

- 101 -

CITY OF KITCHENER

2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

It is the opinion of this Committee that the lot to be created through this application is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

Submission No.: B 2021-023

Moved by B. McColl
Seconded by J. Meader

That the application of ADAM DOUGLAS SZUBA, TRACY MARY SZUBA and ROBERTO DRELINI requesting permission to sever a parcel of land identified as Parcel 'D' on the plan submitted with the application having a width of 8.38m, a depth of 32.61m and an area of 263 sq.m., on Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347, 654 Rockway Drive, Kitchener, Ontario, **BE REFUSED**.

It is the opinion of this Committee that the lot to be created through this application is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

COMBINED APPLICATION

1. Submission No.: B 2021-024, A 2021-034
Applicant: 59 Carisbrook Dr. Ltd.
Property Location: 59 Carisbrook Dr.
Legal Description: Part Lot 59, German Company Tract

Appearances:

In Support: M. Warzecha
A. Bast

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to sever a parcel of land being irregular in shape at the rear of the property having a width of 38.71m, a westerly depth of 33.22m and an area of 503 sq.m. to be conveyed as a lot addition to the property municipally addressed as 34 Hillcrest Lane. Permission is also being requested for a minor variance to legalize the subject property for have frontage on a private lane whereas the By-law requires all properties to have frontage on a public street.

The Committee considered Development Services Department report DSD-21-051 dated April 9, 2021, recommending approval of these applications, subject to the conditions outlined in the Report.

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

- 102 -

CITY OF KITCHENER

1. Submission No.: B 2021-024, A 2021-034 (Cont'd)

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with applications B 2021-024 and A 2021-034.

The Committee considered the report of the Grand River Conservation Authority dated April 8, 2021, advising they have no objection to this application subject to the following condition:

- 1) That prior to final approval, the owner/applicant submit the plan review fee of \$430.00.

Submission No.: B 2021-024

Moved by S. Hannah
Seconded by J. Meader

That the application of 59 CARISBROOK DR LTD requesting permission to sever a parcel of land being irregular in shape at the rear of the property having a width of 38.71m, a westerly depth of 33.22m and an area of 503 sq.m. to be conveyed as a lot addition to the property municipally addressed as 34 Hillcrest Lane, on Part Lot 59, German Company Tract, on 59 Carisbrook Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner shall provide a building code assessment as it relates to the new proposed property line to the satisfaction of the Chief Building Official. The building code assessment relates to the new proposed property line and any of the buildings adjacent to this new property line and 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.
4. That the owner shall ensure the lands to be severed are to be added to the abutting lands and title is to be taken into identical ownership as the abutting lands. The deed for endorsement shall include that any subsequent conveyance of the parcel to be severed shall comply with Sections 50(3) and/or (5) of the Planning Act, R.S.O. 1990, c. P.13, as amended.
5. That the owner's Solicitor shall provide a Solicitor's Undertaking to register an Application Consolidation Parcels immediately following the registration of the Severance Deed and prior to any new applicable mortgages, and to provide a copy of the registered Application Consolidation Parcels to the City Solicitor within a reasonable time following registration.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

- 103 -

CITY OF KITCHENER

1. Submission No.: B 2021-024, A 2021-034 (Cont'd)

Submission No.: A 2021-034

**Moved by S. Hannah
Seconded by J. Meader**

That the application of 59 CARISBROOK DR LTD requesting permission to legalize the subject property to have frontage on a private lane for the purpose of a lot addition requested through Consent Application B 2021-024 whereas the By-law requires all properties to have frontage on a public street, on Part Lot 59, German Company Tract, 59 Carisbrook Drive, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

ADJOURNMENT

On motion, the meeting adjourned at 12:19 p.m.

Dated at the City of Kitchener this 20th day of April, 2021.

Dianna Saunderson
Secretary-Treasurer
Committee of Adjustment

TAB 5

ISSUE DATE:

July 08, 2011



PL110214

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant / Appellant: Chris & Rochell McNabb
Subject: Consent
Property Address/Description: 814 Glasgow Street
Municipality: City of Kitchener
Municipal File No.: B-2010-046
OMB Case No.: PL110214
OMB File No.: PL110214

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant / Appellant: Chris & Rochell McNabb
Subject: Consent
Property Address/Description: 814 Glasgow Street
Municipality: City of Kitchener
Municipal File No.: B-2010-050
OMB Case No.: PL110214
OMB File No.: PL110215

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant / Appellant: Chris & Rochell McNabb
Subject: Minor Variance
Variance from By-law No.: 85-1
Property Address/Description: 814 Glasgow Street
Municipality: City of Kitchener
Municipal File No.: A-2011-017
OMB Case No.: PL110214
OMB File No.: PL110216

APPEARANCES:

Parties

Chris & Rochell McNabb

City of Kitchener

Counsel

Karl D. Jaffary Q.C.

Steve Ross

Region of Waterloo

Debra Arnold

Mr. Doug Good

John V. Cosman

DECISION DELIVERED BY J. P. ATCHESON AND ORDER OF THE BOARD

This was a hearing in the matter of appeals by Chris and Rochell McNabb from decisions of the City of Kitchener, Committee of Adjustment, that refused to grant consents for two residential lots, together with the Committee of Adjustment's decision to refuse to authorize a minor variance from Zoning By-law 85-1 of the City of Kitchener for proposed Lot A, all being Committee of Adjustment files (B-2010-046, B-2010-050 and A-2010-017).

The lots proposed by the Appellants are located on a property known as 814 Glasgow Street in the City of Kitchener. Proposed Lot A is a corner lot at the intersection of Glasgow Street and Silvercrest Drive and would have a frontage of some 26.131 metres on Silvercrest Drive and an overall lot area of some 740.9 sqm. Proposed Lot B would have a lot frontage of some 25.042 metres on Glasgow Street and a lot area of some 929.05 sqm. The retained lands are occupied by an existing residential dwelling, a detached garage and private water and sewage systems. The retained lot would have a frontage of some 24 metres on Silvercrest Drive and a lot area of 2115.1 sqm.

The variance requested applies to Lot A and seeks relief from Section 36.2.1 of Zoning By-law 85-1 of the City of Kitchener to permit a lot area of 740.9 sqm whereas the Zoning By-law 85-1 requires a minimum lot area of 929 sqm. The proposed lot configuration is set out at Exhibit 4, Tab D.

At the commencement of the hearing Mr. Cosman, Counsel for Mr. Good a neighbour, sought party Status. Mr. Good is a resident who lives across the road from the subject property. The Board, with the consent of the other parties, granted Mr. Good party status.

Counsel for the Region of Waterloo advised the Board that the Region took no position with respect to the matters other than to indicate that if the Board was to find in

favour of the Appellant and approved the consents and variance, that the Region would request the inclusion of conditions as set out at Exhibit 2. Similarly, Counsel for the City of Kitchener advised that the City took no position on the matter but requested that if the Board was to find in favour of the Appellant, that the conditions recommended by staff to the Committee of Adjustment as set out at Exhibit 8, be imposed.

All parties on consent indicated that in the event that the Board were to find in favour of the Appellant, that the conditions of the Region and the City were appropriate, bearing in mind the concerns that would be adduced by Mr. Good's witnesses with respect to the City's conditions.

CONTEXT AND THE EVIDENCE

The subject lands consist of a 0.4 hectare residential corner lot. Currently the property is developed with a large single family home (approximately 350 sqm) that sits diagonally and generally in the middle of this well treed lot. The open amenity space associated with the existing home is predominately to the north as shown on Exhibit 6. The property has a frontage of some 53.18 metres on Silvercrest Drive (Waterloo) and a flankage of some 74.37 metres along Glasgow Street (Kitchener) and derives its current access from Silvercrest Drive. The east side of Silvercrest Drive forms the municipal boundary between the Cities of Kitchener and Waterloo. There is a significant change in grade between the road way and subject property along Glasgow Street of about 3 metres, and as such the City of Kitchener when it reconstructed Glasgow Street installed a retaining wall and steel road barrier as shown on Exhibit 6 along a major portion of the northern edge of Glasgow Street right-of-way that abut the subject property as shown on Exhibit 6.

The surrounding land uses consist of a vacant large single family lot to the immediate north, to the west on the opposite side of Silvercrest Drive is a single family residential development on smaller lots (15.3 meter frontages) in the City of Waterloo. A 53-unit Townhouse development exists to the south west, diagonally opposite to the subject lands. Lots to the east and southeast along Glasgow Street consists of larger estate lots which range in size from 0.2 ha to 0.83 ha and with frontages varying from 31.6 to 63.9m. These lots generally consist of larger single family homes in a variety of

housing styles nestled into the former woodlot that covered this area. By all accounts this is an enclave of upscale residential homes in the City of Kitchener. The area by all accounts is stable with some redevelopment of new homes on existing lots. In 2000 one residential lot of some 0.09 ha in area was created by consent some 600 metres to the east of the subject property on the north side of Glasgow Street. This severed lot is located adjacent to a condominium project situated on Briar Patch Lane. Residential lots of similar character but slightly smaller in size exist to the immediate north on Maple Hill Drive. The Maple Hill area gains access from Silvercrest Drive.

The subject lands are governed by a number of both provincial and local planning policy regimes being:

1. The 2005 Provincial Policy Statement;
2. The Growth Plan for the Greater Golden Horseshoe Area;
3. The Region of Waterloo Official Plan which designates the City of Kitchener within the "City Urban Area" (Section 7.3.1.1);
4. The City of Kitchener Official Plan designates the site "Low Rise Residential"; and
5. The new adopted but not yet approved Official Plan for the Region of Waterloo designates the site "Built -Up Area of the Urban Area Neighbourhood".

The planning witnesses all generally agree that the Provincial Planning documents sanction the proposed development on this site and encourage that such urban sites be considered as candidate areas for redevelopment and intensification. The planners also agree that the form and extent of intensification is governed by the policy regime of the in force City of Kitchener's Official Plan and Zoning By-law.

The site is currently zoned by Zoning By-law 85-1 of the City of Kitchener as "Residential Two Zone (R2)" which would permit among other things single-family dwellings on lots with 24 meter frontages with a minimum lot area of 929.0 sq metres. This zone also permits Duplex Dwellings and Residential Care Facilities under the same regulations.

These facts are not in dispute.

The Board, during the course of this two-day hearing, heard from four lay witnesses and the following qualified professionals:

1. Mr. Sandro Bassanese, a qualified Land Use Planner and Urban Designer employed by the City of Kitchener as an Urban Designer, testified under summons regarding the City staff's planning report on the Appellant's applications to the Municipality;
2. Mr. Scott J. Patterson, a qualified Land Use Planner, was retained by the Appellant in the summer of 2010 to assist them in the preliminary planning evaluation of the site and to assist his client in their applications to the Municipality's Committee of Adjustment;
3. Mr. Mark L. Dorfman, a qualified Land Use Planner, was retained by Mr. Good to review the documents filed with the original application as amended and to provide his opinion on the merits of the applications now before the Board.

Mr. McNabb, is the owner/resident with his wife, of the subject property, and is a successful developer. He spoke in favour of the project and advised the Board how he felt the site could be sensitively developed in keeping with the character of the area. The other three lay witnesses, all of whom live in the immediate neighbourhood, testified in opposition to the proposed development raising a list of concerns. However, in the Board's finding, the salient concerns expressed by these residents may be summarized as follows:

1. The proposed development is not in keeping with the general character of the area;
2. The loss of trees on the property;
3. The changes in the existing views of the streetscape along Glasgow Street;
4. The driveway access from Lot B to Glasgow Street is unsafe;

5. The loss of privacy due to change in elevation and proximity of the proposed new homes to the house on the existing lot, and its proximity to Mrs. Kan's home to the immediate east;
6. The proposed development is an over development of the site, resulting in an irregular and chaotic lot pattern;
7. The proposed development will result in a loss of many trees on the site which they view as a negative environmental impact.

There is also general agreement among the planning witnesses regarding the applicable policies of the City of Kitchener Official Plan to be considered in evaluating this proposal. However, their planning opinions vary as to whether the proposal now before this Board and the proposed implementing documents and conditions recommended by the Region and the City of Kitchener's staff conform to these policies. The Planning witnesses also generally agree that the Provincial Policy regimes encourage more compact built form within the built up area of the City of Kitchener and would encourage the intensification of this site. They also agree that the built form and the density of intensification for this site are to be left to the determination of the City through its planning policy documents. They disagree that the Appellant's applications met the Official Plan tests, the criteria for the subdivision of land as set out in Section 51 (24), and the four tests for a minor variance set out in Section 45(1) of the *Planning Act*.

It is clear to the Board the matters in the case are local in nature and would not offend any Provincial policies' directions. Further the City of Kitchener Official Plan encourages in Part 2, Section 1.5:

The creation of additional housing in existing developed areas, through conversion, infill and redevelopment as an appropriate response to needs and to make better use of existing infrastructure and public service facilities.

However, this is not an outright sanction to new more intense development as Section 1.5.3 of the Kitchener Official Plan makes it clear that:

Any new residential buildings, additions to existing buildings, modifications to existing residential buildings and conversions in predominantly low density neighbourhoods shall be consistent with the massing, scale, design and character of that neighbourhood and both appropriate landscaped areas and appropriate parking areas are provided.

Similarly when considering planning approval for a minor variance, Section 1.6 of the City of Kitchener Official Plan requires among other things that:

- i) Any new buildings and any additions and/or modification are appropriate in massing and scale and are compatible with the built form and character of the neighbourhood.
- ii) Front yard setback reductions may be considered for new buildings in established neighbourhoods provided the front yard setback is similar to adjacent properties and supports and maintains the character of the streetscape
- iii) New buildings, additions, modifications and conversions are sensitive to the exterior area of adjacent properties and that appropriate screening and /or buffering is provided to mitigate any adverse impacts.

It was Mr. Patterson's position that the revised application, when considered in light of the conditions being recommended by City staff, would meet the objectives of the Official Plan and that his client through his Preliminary Vegetation Management Plan, Exhibit 5 and Preliminary Grading Plan, Exhibit 6 and proposed building Elevation Plan, Exhibit 7 had on a *prima facie* basis established that the property can be developed as proposed in conformity with the applicable policies of the City's Official Plan and would not offend the criteria for subdividing lands prescribed by the *Planning Act*.

Mr. Dorfman on the other hand opined that the grading as set out in the Preliminary Grading Plan, Exhibit 6, would require either the filling of Lot B or the creation of a bridge in order to access Glasgow Street. He demonstrated his concerns with several elevation cross sections through this proposed lot. He opined that to construct a new home of the elevation proposed on Lot B would result in overview issues with the existing home on the site. He noted that in order to consummate the development plan approximately 40% of the existing dwelling's footprint (the Pool House) would have to be demolished and the proposed western lot line needed to be adjusted to provide the minimum separations required by the Zoning By-law and that this lot configuration was not good planning and would not conform to the applicable

Official Plan policies found in Sections 1.5 and 1.6. It was his evidence that the proposed sighting of the buildings on the proposed lots would create oversight issues with the existing dwelling on the site, did not conform to the policy directions of Section 1.6. iii), and that to create oversight issues was not good planning. It was his opinion that the configuration of the proposed lots was irregular and "Chaotic" and did not represent orderly development of the site. He further, through his study of lot sizes for various corridors in the area, opined that the lot pattern being proposed was not consistent with the lot pattern found in the area, that proposed Lot A was one of the smallest lots in the area when compared to the lots situated to the east along Glasgow Street and would not meet the applicable test of Section 51(24) of the *Planning Act* namely that the proposed lots do not meet the intent of the City of Kitchener's Official Plan and that the dimensions and shape of the proposed lots are not in keeping with the existing lots found in the area.

Mr. Patterson opined that the proposed lots, with the exception of Lot A, meet all of the requirements of the Zoning By-law and that the reduction in this lot area was the result of requests by city staff to maintain the existing private services (the Well) on the retained lot. He opined that the lot configuration was the result of his client's attempt to preserve the trees on the site, a portion of the existing dwelling, and the private services on the site and met the requests of City staff. He opined that the reduction in only the Lot area of Lot A was minor when considered in relation to the smaller lot sizes found to the west and that this site and proposed development provided an appropriate transition from the smaller lots to the west in relation to the larger lots found to the east along Glasgow Street. Mr. Dorfman, on the other hand, opined that there was no compelling planning reason to create a transition where one is not required. He noted the Glasgow neighbourhood is intact and that the existing lots in this area have existed for more than fifty years without any significant fragmentation.

Mr. Sandro Bassanese testified that in his opinion the conditions being recommended by City staff would protect much of the vegetation on the site. He anticipated from the Preliminary Vegetation Management Plan, Exhibit 5, that eight mature maple trees would be lost as a result of the development pattern being proposed. Mr. Dorfman believes that more trees may be affected. Mr. Bassanese freely admitted, under cross examination, that the posting of performance securities and the ability for the City to enter upon the site to enforce the proposed conditions were

important requirements of any agreement sanctioning the development of the property. The Board has no doubt that the City can develop an appropriate subdivision agreement to protect the public interest in this case and further that such an agreement should and would be a requirement for any redevelopment of this site that considered intensification. However, the test in the first instance is whether the revised proposed lotting pattern represents good long-term planning for this area of the City of Kitchener.

FINDINGS AND CONCLUSIONS

The Board, after carefully reviewing the evidence, the exhibits filed and the submissions made by the parties and the participants, makes the following findings.

It is clear that in recent years one of the major thrusts of Provincial Policy has been the more efficient use of our municipal infrastructure within urban areas and that intensification within urban areas is a significant tool in achieving this objective. There is no evidence that the City of Kitchener has not been or is not currently following this Provincial Policy direction. It is also equally clear that the subject site is an excellent candidate for redevelopment and that any form of residential redevelopment that increased the number of residential dwelling units in the site regardless of its density would qualify as intensification.

The Provincial mandate for intensification is not a licence to abandon sound planning principals, or to diminish appropriate land use planning standard in search of more density. Alternatively, intensification requires sensitive design as stated in the City of Kitchener's Official Plan that "shall be consistent with the massing, scale, design and character of that neighbourhood and both appropriate landscaped areas and appropriate parking areas are provided."

The Board would note that the existing zoning standards of the City of Kitchener covering this area are substantial in comparison to contemporary residential zoning standards found to the immediate west. However, the facts in this case are that the standards established by Zoning By-law 85-1 of the City of Kitchener being "Residential Two Zone (R2)" are minimum standards when compared to the development that has already occurred in this area and provides a suitable regulatory framework for the

intensification of this area. The Board finds in this case that to further reduce the lot area standard for Lot A would not result in appropriate development consistent with the form of development that characterizes this neighbourhood of the City of Kitchener, and that on this basis the relief sought for proposed Lot A is not minor and would not meet the intent and purpose of the City of Kitchener's Official Plan and Zoning By-law and would not result in the appropriate development of this area.

The Board appreciates that the lot pattern being proposed results from attempts to preserve the existing private infrastructure of the existing residence which in no small part results from the location of the existing residence and its private infrastructure on this property. However, in the Board's finding these efforts result in a lot pattern that is inconsistent and not compatible with the existing lot pattern in the area and does not maintain the character of the streetscape as required by the City of Kitchener's Official Plan.

The reduction in lot area in this case is the function of preserving an existing well on the retained parcel. The more compelling evidence is that full municipal services are available in this area requiring only normal extensions of this infrastructure. To create a new development scheme designed to avoid full municipal services in an urban area as part of a proposal to intensify the level of development on the site in the Board's finding is not good planning. In this regard the Board finds that the City staff had it right when they first considered the application and stated that:

Staff is of the opinion that this lotting pattern does not conform with the scale and character of the neighbourhood.

The Board finds that the minor changes to the lotting pattern of Lot A resulting in its reduced lot area to ensure that the existing well is on the retained property is an engineering and servicing issue but does not alter the fundamental soundness of staff's original opinion. Nor does the Board find that the Preliminary Vegetation Management Plan, Exhibit 5, the Preliminary Grading Plan, Exhibit 6 and proposed building Elevation Plan, Exhibit 7, demonstrate that this minor change to Lot A in any significant way alters the irregular lotting pattern or is an appropriate rationale to abandon the lotting pattern that characterizes the area. Nor does the Board conclude that the lotting pattern has been specifically changed to protect the trees on the site. Under a more regular and consistent lotting pattern the protection of the existing trees as much as possible would

still be an issue requiring the City's attention. The Board concludes that the revised lotting pattern does not conform with the lotting pattern currently found in the neighbourhood which constitute the scale and character of the Glasgow Street neighbourhood. Furthermore the reasons given by the Appellant's planning witness to change the lotting pattern to that being proposed are not compelling and do not represent good long-term planning for this area.

The Board in this regard prefers the opinions of Mr. Dorfman that the lot pattern will result in overview issues from the new lots to the existing dwelling that this situation could and should be avoided. This proposed lotting pattern in the Board's finding does not constitute good planning consistent with the requirements of the City of Kitchener's Official Plan Sections 1.5 and 1.6 and the criteria of Sections 51. (24). (c), (d) and (f) of the *Planning Act*. Furthermore, for the reasons indicated earlier in this decision the Board concludes that the minor variance for proposed Lot A does not meet the four tests of Section 45. (1) the *Planning Act*

Accordingly and for the reasons contained in the decision:

1. **THE BOARD ORDERS** that the appeal from the decision of the Committee of Adjustment of the City of Kitchener (File No.: (B-2010-046) is denied and the provisional consent is not to be given.

2. **THE BOARD ORDERS** that the appeal from the decision of the Committee of Adjustment of the City of Kitchener (File No. B-2010-050) is denied and the provisional consent is not to be given.

3. **THE BOARD ORDERS** that the appeal from the decision of the Committee of Adjustment of the City of Kitchener (File No. A-2010-017) is denied and the minor variance is not authorized.

This is the **Order** of the **Board**.

"J. P. Atcheson"

J. P. ATCHESON
MEMBER

October 15, 2021

Via E-mail (eric.schneider@kitchener.ca)

Eric Schneider
Planner
City of Kitchener
200 King Street West
Kitchener, ON N2G 4G7

John S. Doherty
Direct +1 519 575 7518
Direct Fax +1 519 571 5018
john.doherty@gowlingwg.com
File no. K0567317

Dear Mr. Schneider:

Re: Letter of Objection
Proposed Re-development of 400 Westwood Drive, Kitchener

We are counsel for Saladin Sahinovic, owner of property municipally described as :
Ontario.

We write further to the Zoning By-law Amendment and Consent applications for 400 Westwood Drive, Kitchener (the "**Subject Property**"). The owners of the Subject Property are proposing to demolish the existing residence and develop four (4) single detached lots/dwellings on the Subject Property (the "**Redevelopment**") next door to our Client's property, as well as conveying the rear half of the Subject Property to the owner of 787 Glasgow St, as a lot addition. While our Client was provided with a written notice of the Redevelopment in the mail, no notice sign has been posed in front of the property as of the time of writing this letter and there may be members of the public who have not been provided with sufficient notice.

Historic Development of Subject Property

Munk Subdivision and Established Green Belt

The Subject Property is located near the intersection of Westwood Drive and Glasgow Street, and the single residence is located on a portion of Lot 1 of the original four-lot Yvonne Munk Subdivision Plan (the "**Munk Subdivision**") established in the late 1970s (copy of plan attached at **Tab "1"**). The Munk Subdivision lands and the broader neighbourhood around Glasgow Street are characterised by a green belt of mature forest.¹ When the application for the Munk Subdivision was made, the Green Belt Neighbourhood Association was formed in response to the application, and the Association agreed to support the application in exchange for the preservation of the Green Belt located on the subdivision lands, including the following conditions,

"4. Existing Conditions

¹ Bounded by Maple Hill Drive in the north to Westwood Drive in the south, and on the west [East side of Silvercrest (Kitchener) North of Glasgow / Westwood Drive south of Glasgow] to Knell Drive on the east.

The property being subdivided is at the corner of Glasgow Street and Westwood Drive. The property will retain its Township Residential zoning which requires lots with a minimum area of 0.20 hectares (one-half acre). The surrounding property is residential with large lot development along Glasgow Street and Semi-Detached development along Westwood Drive. The lot is heavily wooded."

(see attached letter from Green Belt Neighbourhood Association Coordinator Judy-Anne Chapman, dated October 22, 1999 at **Tab "2"**)

The 400 Westwood 1999 Severance

In 1999, more than 20 years after the Munk Subdivision was established, a further severance was approved subdividing Lot 1 further and allowing for a single infill site at the south-eastern rear of the Subject Property fronting onto Dayman Court. This Severance left the portion of Lot 1 that currently comprises the Subject Property today, including the retention of the woodlot at the rear of the property.

At the time of the 1999 severance application, City Council was reminded of the agreement between the Green Belt Neighbourhood Association and the original developer. As a condition of approval, the City required a Tree Preservation/Enhancement Plan which minimized the impact on the wooded character of the severed lot, consistent with the other Munk Subdivision lots.

The Current Re-Development Application

The current redevelopment application seeks to subdivide the Subject Property into five (5) lots, as detailed below in the table included on page 11 of the IBI Planning Justification Report,

Description	Proposed Area	Proposed Frontage
Lot 1	627.7 sq. m	15.3 m
Lot 2	477.3 sq. m	11.6 m
Lot 3	477.3 sq. m	11.6 m
Lot 4	470.1 sq. m	11.5 m
Lot 5	1,785.0 sq. m	0.0 m (on Westwood Drive)

The proposed re-development would require a significant jump in zoning from R-2 to R-4 and result in the original Lot 1 from the Munk Subdivision being subdivided into six (6) separate lots (it is currently two [2] lots as a result of the 1999 severance), with four development parcels shoe-horned between the same lots from the Munk Subdivision, with their same estate lot dimensions and wooded character.

Our Client sought a planning opinion from Mark Dorfman, who has opined that no more than three (3) residential lots and R3 zoning is appropriate for the Subject Property from a planning perspective. He also cautions the City of Kitchener to not amend the Zoning Bylaw, then later deal with the site impacts as site plan issues, without first consultation with the neighbors in the community. A copy of his planning opinion is attached at Tab "3".

We note that earlier this year, the City's Committee of Adjustment also refused Consent Applications sought for the purpose of creating a similar four unit infill re-development application for a single existing lot at 654 Rockway Drive (Submission No.: B 2021 to B 2021-023) (Committee Decision Attached at

Tab “4”). In that case the property was already zoned R-4 Residential as-of-right but the Committee concluded that it was “not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood”, which is required by Sections 4.C.1.8 and 4.C.1.24 of the City’s Official Plan.

Impacts on Adjacent Properties

While Mr. Dorfman has opined that R3 zoning and a three (3) unit development could represent maximum intensification of the Subject Property, there are a number of physical impacts on the adjacent properties which would prohibit a four (4) unit development, and may also prohibit even a three (3) unit re-development.

Change in Grade

Significant re-grading is proposed across the Subject Property to accommodate the re-development proposal. As detailed on the Existing Condition and Removal Plan (Sheet 1) contained in the Functional Servicing and Storm Water Management Report, the owner is proposing to remove the retaining wall along the entirety of the frontage of the Subject Property on Westwood Drive, and a portion of the wall located on 396 Westwood Drive. We understand that this removal is for the purpose of lowering the grade of the Subject Property by approximately 1-1.25 metres towards street level, to accommodate the additional building lots, and that the result of this change in grade will necessitate the removal of numerous mature trees. Our Client does not consent to the removal of any portion of the retaining wall on their private property (see attached 1986 Survey at **Tab “5”**). The chain link fence shown on the survey marks the property boundary and the southern face of the wall is clearly located on the 396 Westwood Drive lands. They are also opposed to the removal of the portion of the wall on City property, or significant modifications to the grading on the sections of the Subject Property that support their wall, as they are concerned that this will negatively impact the integrity of their remaining portion of the wall and may result in drainage issues and the further loss of trees as detailed below.

Drainage

On page 29 of the IBI Planning Justification Report, it is suggested that “Additional stormwater controls are not required due to the relatively small increase in imperviousness and the maintenance of existing drainage patterns.” In light of the significant grade change proposed, it is hard to understand how existing drainage patterns can be maintained, and the suggestion that there is only a small increase in imperviousness is misleading.

On page 29 of the Planning Justification Report, IBI states that the average imperviousness of the development lands will increase from 13% to 18%. These percentages are detailed in the Imperviousness Analysis on pages 3 and 4 of the Functional Servicing and Storm Water Management Report. IBI arrives at these percentages by averaging the impervious area of the entire site (mapping reproduced below), including the woodlot at the rear of the site which will be conveyed to the owner of 787 Glasgow Street, rather than the area in which the new lots are proposed.



In calculating the average existing imperviousness, IBI includes the sheds and a pool, which are additional impervious uses which may be deployed on any of the proposed four lots. Using the before and after percentage of imperviousness based on the size of the entire property (including a woodlot that will not be developed and will be conveyed to a third party) does not accurately gauge the impact on drainage caused by the development at the front of the property, where only minimal setbacks from the adjacent properties to the North and South are proposed. The 13% and 18% before and after averages identified by IBI were generated by dividing the 0.05 ha of predevelopment impervious areas and 0.07 ha post development impervious areas by the total 0.38 ha Subject Property. The problem with this approach is that it does not gauge what percentage of the development area will be impervious after the woodlot has been transferred to another owner.

The table from page 11 of the IBI Planning Justification Report reproduced above, identifies the rear woodlot portion of the Subject Property as being 1,785 square metres, or approximately 0.1785 ha. If 0.1785 ha is subtracted from the Subject Property's total 0.38 ha, it leaves 0.2015 ha for the four proposed development parcels, and an average coverage rate of 34% ($0.07\text{ha} \div 0.2015$) for this area. Even with the inclusions of the sheds and pools present on the Subject Property, there is an increase in the average impermeability from 13% to more than double that, at 34% for the four proposed development lots.

It is not clear that the proposed development can account for these additional flows, especially where the grade is changed dramatically, and only minimal setbacks are provided for. Our Client does not consent to accepting additional stormwater flows from the Subject Property as a result of a failure to account for the additional impermeable area and its proximity to the property line. Our Client's driveway also slopes down eastward from Westwood Drive and is more than 1.5 meters below the retaining wall along their northerly property boundary (lower than street level). With the new residence proposed with only a 1.5 meter setback (as compared to the existing nearly 14 meters of setback), and with the proposed removal of a portion of the retaining wall, creating a slope down near the mouth of the driveway entrance, there is a serious risk of excess stormwater flows flowing down toward the foundation of our Client's home. We have attached photos of the driveway and wall area for your reference at **Tab "6"**.

Loss of Mature Trees

It is clear from the Existing Condition and Removal Plan, as well as the proposed removal of the retaining wall and respective grade change, that numerous mature trees are proposed to be removed. To

accommodate the three additional driveways off of Westwood Drive, and as a result of the minimal separation between the proposed residences, there is also very little room to reinstate any equivalent sized trees and it is not clear from the Arborists Report how the significant loss of trees will or can be addressed through new plantings. As a result, the Subject Property will no longer have the wooded character of the adjacent properties along Westwood Drive and Glasgow Street.

Page 8 of the IBI Arborist Report indicates that they have surveyed a total of 122 trees on the Subject Property and another 21 on adjacent properties. They indicate that 70 trees will be preserved on the woodlot (conveyed to 787 Glasgow Street), and only 26 on the proposed development lots. There are 27 proposed tree removals on the Subject Property, only three of which are recommended to be removed due to their alleged hazard status.

Based on IBI's survey, the proposed development would see more than half of the 52 trees in the area of the proposed development lots removed. This is not in keeping with the character of the adjacent lots along Glasgow Street and Westwood Drive, and the preservation of the Green Belt a condition to the Munk Subdivision approval. Our Client is also concerned that these are not all of the trees that will be affected, and that some have been missed in the IBI survey. Our Client is also concerned that additional trees will be damaged and lost as a result of the significant change in site grading, along with the proposed removal of the retaining wall. Our Client has identified their further concerns regarding the loss of boundary trees, including as a result of the proposed removal of the wall (see attached Annotated Mapping from Arborists Report at **Tab "7"**).

In addition to the trees located on the Subject Property, on page 5, IBI notes that there are several trees located in close proximity to the property boundaries which are proposed to be removed. They have assumed that any shared tree located on the property boundary or within 0.3 meters will, in accordance with the *Forestry Act*, require written approval from all property owners prior to initiation of any work and tree removals. To be clear, our Client's consent was never sought by the developer and will not be granted for the removal of any shared tree protected by Section 10 the *Forestry Act*, nor the removal or damage to any trees on their property as a direct or indirect result of the proposed development, nor the removal of any tree which would destabilize the wall.

It is also unclear to our Client how the minor setbacks proposed could be accomplished without the removal of these trees, including as an indirect effect of the removal of the retaining wall.

Loss of Screening and Privacy

As a result of the loss of more than 50% of the trees across the area of the proposed development lots, there will be a loss of screening between the Subject Property and the adjacent properties. This will be exacerbated by the limited setbacks proposed. In addition to the loss of trees, other vegetation will also be removed as part of this process, and the lowering of the grade on the Subject Property will only exacerbate this loss of privacy. This impact is especially pronounced for our Client's property, as the cedar hedge along the property line is proposed to be removed. Their home faces north and would face a new dwelling unit with a setback of only 1.5 meters, in contrast to the existing approximately 14 meter setback. Further to this, our Client's property is the southern most lot from the Munk Subdivision and it is connected to the balance of the Green Belt forest via the Subject Property. As a result of the tree and other foliage removals proposed combined with the minimal 1.5 meter setback proposed on the southern side of the Subject Property, our Client's property would be effectively cut off from the Green Belt.

Precedent

In 2011, the City of Kitchener's Committee of Adjustment refused to grant the necessary permissions to redevelop 814 Glasgow Street (a similar wooded estate lot approximately 100 metres from the Subject Property) from a single residence to three residential lots. The decision of the Committee was appealed to the Ontario Municipal Board (the "**Board**"), and the appeal was dismissed (Decision attached at **Tab "8"**). In dismissing the appeal the Board made the following findings based on the expert planning evidence of Mr. Dorfman, which remain applicable:

...The Provincial mandate for intensification is not a licence [*sic*] to abandon sound planning principals [*sic*], or to diminish appropriate land use planning standard in search of more density. Alternatively, intensification requires sensitive design as stated in the City of Kitchener's Official Plan that "shall be consistent with the massing, scale, design and character of that neighbourhood and both appropriate landscaped areas and appropriate parking areas are provided."

The Board would note that the existing zoning standards of the City of Kitchener covering this area are substantial in comparison to contemporary residential zoning standards found to the immediate west. However, the facts in this case are that the standards established by Zoning By-law 85-1 of the City of Kitchener being "Residential Two Zone (R2)" are minimum standards when compared to the development that has already occurred in this area and provides a suitable regulatory framework for the intensification of this area. The Board finds in this case that to further reduce the lot area standard for Lot A would not result in appropriate development consistent with the form of development that characterizes this neighbourhood of the City of Kitchener, and that on this basis the relief sought for proposed Lot A is not minor and would not meet the intent and purpose of the City of Kitchener's Official Plan and Zoning By-law and would not result in the appropriate development of this area...

As noted by the Board in their decision, and in the recent decision by the City's Committee of Adjustment refusing to grant a similar 4 lot infill application, intensification "shall be consistent with the massing, scale, design and character of that neighbourhood".

Conclusion

Our Client is not opposed to reasonable development, but not at the expense of sound planning principles. Our Client therefore asks that the City deny the zoning by-law amendment and consents sought to permit a four (4) lot development, as this clearly does not represent good planning in the public interest.

In a spirit of neighbourly co-operation, our Client would, however, be willing to meet with the owners of 400 Westwood Drive and other impacted property owners to see if a more appropriate scale development could proceed which addresses their concerns with respect to grade change, drainage, the loss of trees, screening, and the other physical impacts to their property. Our Client therefore asks

that sufficient time be provided between the neighbourhood information session and the Committee and City Council decisions so that these discussions may take place.

Yours very truly,

Gowling WLG (Canada) LLP



John S. Doherty

JSD:hp
Encl.

cc: City of Kitchener Clerk (clerks@kitchener.ca)
Jacqueline Armstrong Gates, Gowling WLG (Canada) LLP
Client

47885026\2

TAB 1

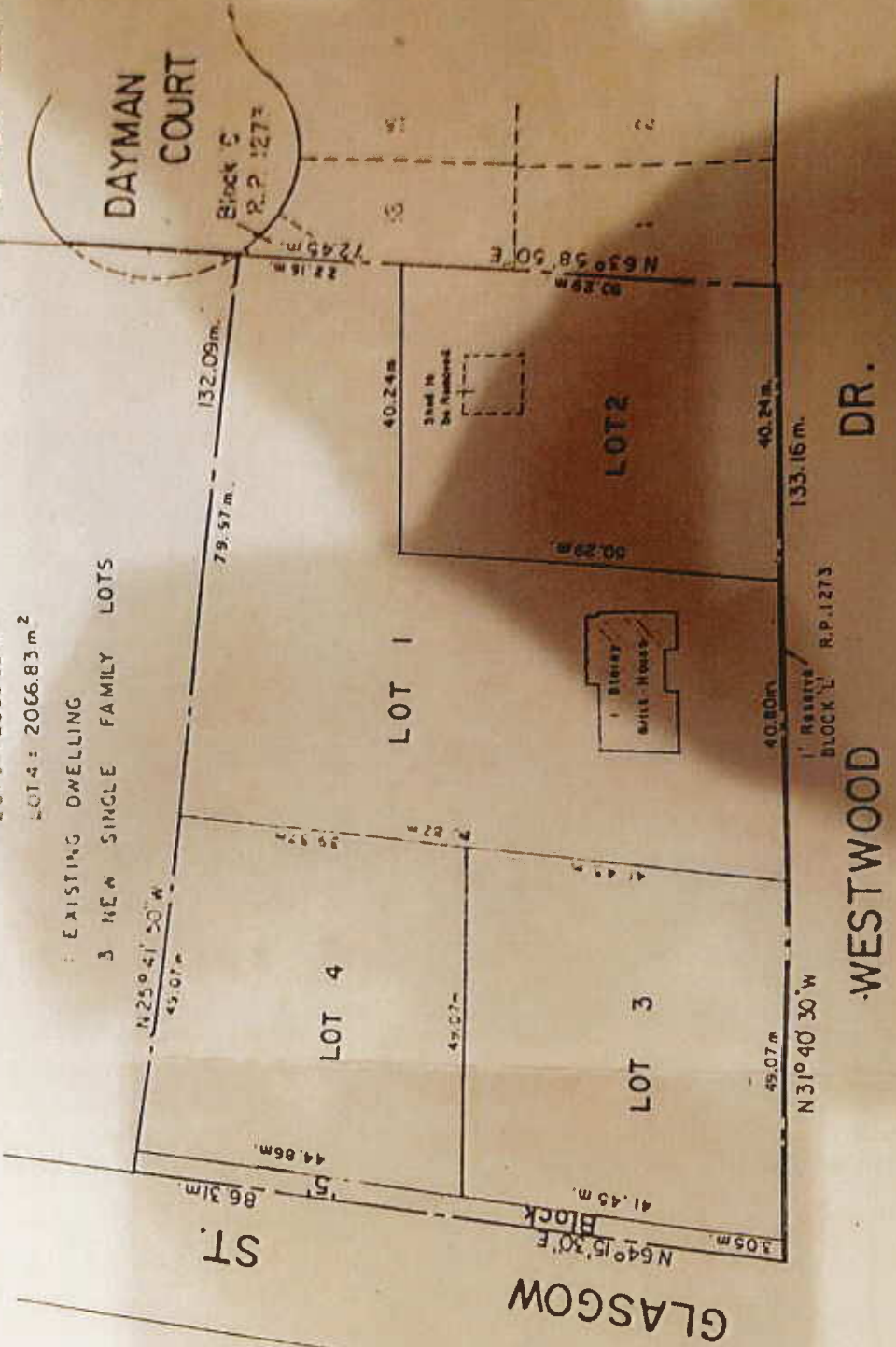
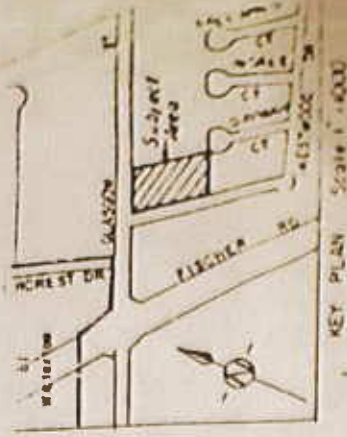
- SUBDIVISION PLAN -

For YVONNE MUNK

TOTAL AREA: 10,528.16 m²
 ZONING ALL TWP R
 AREA OF BLOCKS: 263.25 m²

LOT 1: 4140.46 m²
 LOT 2: 2023.67 m²
 LOT 3: 2033.95 m²
 LOT 4: 2066.83 m²

EXISTING DWELLING
 3 NEW SINGLE FAMILY LOTS



TAB 2

11 Dayman Court,
Kitchener, Ontario.
October 22, 1999.

Councillor Chris Weylie,
West Ward,
279 Glasgow Street,
Kitchener, Ontario.

Dear Councillor Weylie (Re: Committee of Adjustment Application No. B 61/99),

Thank you for representing me at the Committee of Adjustment meeting on Tuesday, October 26th. I had a hysterectomy on Thursday, October 14th so am unable to personally attend the meeting or to arrange for an informed neighbourhood representative to attend on my behalf on such short notice.

The severance of Dr. and Mrs. Nurse's property was only brought to my attention on Wednesday, October 20th by Dr. Nurse. Over the last two days, I have discussed the current situation with both the Nurses and the Planner involved, Zyg Janecki.

There is a negotiated **Plan of Subdivision** from 1978/79 covering the original development of the Munk property from which this current Nurse property derived. I was the neighbourhood contact for the original **Plan of Subdivision** and am objecting both about

1. the current proposed severance

and

2. the process under which this severance is being considered.

1. Current severance:

- The negotiated settlement for the **Plan of Subdivision of the Munk property** (see attached sheets) came with the following clause:

"4. Existing Conditions

The property being subdivided is at the corner of Glasgow Street and Westwood Drive. The property will retain its Township Residential zoning which requires lots with a minimum area of 0.20 hectares (one-half acre). The surrounding property is residential with large lot development along Glasgow Street and Semi-Detached development along Westwood Drive. The lot is heavily wooded."

The intent of this clause was to preserve the nature of development **within the woods** to be similar by zoning category to adjacent wooded properties; this was protective of adjacent, or like, treed properties in that it preserved the nature of treed development, not setting a precedent for higher zoning in future development.

While the final original diagrams do not indicate a severance line for the intended (even at that time) eventual subdivision of the block of land now represented by the Nurse property, it was understood by both the developer and neighbourhood that this would likely take place sometime in the future at a time when the (future) landowner decided how to split the property. There was an understanding that the neighbourhood would not have grounds for objecting to such a severance should it proceed **exactly** along the lines of the original **Plan of Subdivision** because of the precedent set by the original subdivision. I have

steadfastly reminded old, and informed new, neighbours of this precedent and implications in several decades of neighbourhood work.

The zoning categories have changed through the years, but the developed lots from the original Munk subdivision all now have an R2 zone (10,000 square feet minimum; 0.223 acres), although they, like the surrounding large treed lots, greatly exceed this minimum, i.e. 1/2 acre lots are 21,780 square feet in size and many nearby properties are at least 1 acre in size.

Zoning would be consistent with adjacent zoning if it was R2; therefore, the analogous appropriate zoning for a severance of the Nurse property should be an R2 (10,000 square feet) not an R3 (minimum 4,886 square feet or 0.1 acres).

Implications:

- i. The current size (8,961 square feet; 0.2 acres) of property to be created by the severance is closer to an R2 zone, but creates a property that is out of character by R3 zoning category with adjacent treed properties, including those created and developed by the original Plan of Subdivision. It would set the precedent for implementation of treed development at an even smaller size throughout the area.
- ii. The current application for severance should be rejected, in favour of a severance that creates an R2 lot. This would have the end result of following the intention of the original Plan of Subdivision. The neighbourhood would be supportive of an expeditious processing of any zone change application.
- iii. The development under an R2 zone may **not only save trees** in the current development (i.e. factors determining base of house and effect on trees will be other than those of house size for R2 versus R3 zoning: soil conditions, drainage, tree loss, etc.), **but would not set a detrimental precedent** for future development. It would be consistent with intent specified in the negotiated Plan of Subdivision.

2. Process for this severance:

Given this is a last implementation of intent of the Plan of Subdivision which created the Nurse property and

the nature of the proposed severance, which departs from the intended character of development under the Plan of Subdivision,

the current process/framework (under the Committee of Adjustment) for considering this changed intention of implementation of the original severance is inappropriate.

- i. The circulation was restricted to only those within a 200 foot (60 meter) radius of the Nurse property.
- ii. I live two properties away from the 200 foot limit (well within the 120 meter limit for Planning process circulation), and did not receive a circulation.
- iii. I also did not receive notification as the original neighbourhood negotiator for the Plan of Subdivision which I would have under the Planning process.

These three facts resulted from the consideration of the subdivision as a straight forward severance.

Had the departures from intent of original Plan of Subdivision been noted by Planning Staff, and a Planning framework been implemented, I would have been included in the original circulation as would others in the neighbourhood who were founding participants in the original Plan of Subdivision. We have had relatively little change in residents of the adjacent lots in the over two decades of implementation of the Plan of Subdivision.

Concluding requests as a result of the above considerations:

That you reject the current proposal for severance.

and either

1. Postpone approval of any severance, pending presentation of a severance which is in character (R2 zoning) with the intent of the original Plan of Subdivision.

OR

2. Refer the proposal of subdivision/severance to a review through the Planning process, where the changed nature in intent from the original plan may be considered by a broader spectrum of residents, or the neighbourhood can support a zone change process to R2 zoning, to maintain the intent of the original Plan of Subdivision. (Please note, that the actual 0.2 lot size is closer to an R2 minimum of 0.223 acres than the R3 minimum of 0.1 acre; might the current proposed severance be viewed as an aberrant R2, if this was supported by consensus of the neighbours as a desirable feature to protect the future of precedent for adjacent trees.)

Respectfully,



Judy-Anne Chapman, PhD
Coordinator for Green Belt
Neighbourhood Association

CC Dr and Mrs. W. Nurse (Applicant)
Zyg Janecki (Planner)
Residents within 200 feet of 400 Westwood Drive

11 Dayman Court,
Kitchener, Ontario.
November 10, 1999.

Janet L. Billet,
Secretary,
Committee of Adjustment,
Department of General Services and City Clerk,
City Hall, 2nd floor,
200 King Street West,
Kitchener, Ontario.

Re - Submission No.: B61/99
Applicant: Elizabeth and William Nurse

In your notification of November 5, 1999, you state that I am entitled to receive notice of any changes to the conditions of the Provisional Consent if I make a written request to be notified of changes to the conditions. Please accept this letter as such written notification. I am particularly concerned about any changes to condition 7. about the Tree Preservation/Enhancement Plan.

Sincerely,



Judy-Anne Chapman, PhD

cc Councillor Chris Weylie

conditions within one year of the date of giving notice of this decision

Section 23 of the Planning Act, the date of the decision is

Supplement

TAB 3

Mark L. Dorfman, Planner Inc.

219 - 50 Westmount Road North, Waterloo, ON, N2L 2R5
Telephone: 519-888-6570 ~ Facsimilie: 519-888-6382 ~ E-mail: dmark@mldpi.ca

October 15, 2021

**Mr. John S. Doherty,
Gowling WLG (Canada) LLP,
345 King Street West,
Suite 600,
KITCHENER ON N2G 1B8**

Dear Mr. Doherty:

**Subject: City of Kitchener
Zoning Bylaw Amendment Application
ZBZ21/012/W/ES
400 Westwood Drive**

**Planning Opinion provided to:
Goodwin/Jaslinskas 795 Glasgow
Sahinovic 396 Westwood**

In response to your request, I provide my Planning Opinion regarding the subject application to amend the City of Kitchener Zoning Bylaw 85-1. The Application was made by Douglas W. Stewart (IBI Group) on behalf of the Subject Property owner, Zakia Kardumovic.

In preparing this Planning Opinion, I have reviewed the following documents:

Application For Zoning By-Law Amendment - August 5, 2021

Planning Justification Report - August 5, 2021

City of Kitchener Official Plan

City of Kitchener Zoning Bylaw 85-1

Registry information.

As well, I reviewed aerial photography of the subject neighborhood and undertook a drive-by of the Subject Property and the neighborhood.

My planning opinion is based on the information at hand. My focus is on the Kitchener Official Plan and the Kitchener Zoning Bylaw. In my opinion, it is important to recognize that the municipal public interest is just as important as the provincial interest at this time.



Neighbouring Properties

The interested neighbors own the following properties in relation to the Subject Property:

795 Glasgow: located adjacent to the north at the corner of Westwood
396 Westwood: located adjacent to the south

Proposed Development

The Subject Property is legally described as Part of Lots 1 and 2, Plan 1536; Part 1, Reference Plan 12471.

The Subject Property is located on the east side of Westwood Drive, south of Glasgow Street.

According to the Application, the Subject Property has a land area of 3,854 square metres (0.385 ha), with road frontage of 50.0 metres and a depth of 78.1 metres.

The Applicant proposes to create four (4) separate lots fronting on Westwood Drive, for residential purposes and to sever and convey the rear 0.179 hectare as a lot extension to 787 Glasgow Street. (The Planning Justification Report erred in stating the conveyance is to 787 Westwood).

The Application is to amend the Zoning Bylaw for the four proposed lots from "Residential Two R-2" to "Residential Four R-4 - Special" and to amend the proposed lot extension from "Residential Two R-2" to "Open Space P-2".

The future proposed severed lots are intended to have the following areas and frontages:

Lot 1: 627.7 m² area with 15.3 metres frontage
Lot 2: 477.3 m² area with 11.6 metres frontage
Lot 3: 477.3 m² area with 11.6 metres frontage
Lot 4: 470.1 m² area with 11.5 metres frontage

The Applicant proposes to vary the "R-4" zoning for Lot 1 by establishing a Minimum Rear Yard of 23.8 metres instead of 7.5 metres and for Lots 2, 3 and 4, a Minimum Rear Yard of 16.5 metres instead of 7.5 metres.

Neighboring Properties

Both of the properties of concern are zoned as "Residential Two R-2".

These two properties and the Subject Property were originally established in the late 1970s and were later reconfigured by consents. The area of the original subdivision plan consisted of four lots and now, within the same land area, there are five lots (Two on Glasgow, two on Westwood, and one on Dayman). The Applicant intends to further subdivide the original plan area and establish a total of eight lots Two on Glasgow, five on Westwood, and one on Dayman.



Planning Analysis

1. The Subject Property is designated as "Low Rise Residential" on Map 3 Land Use in the Kitchener Official Plan. The neighboring properties are located in the same designation. Section 15.D.3.8 of the Official Plan provides that "a full range of low density housing types" are accommodated in this Designation.
2. The Policy provides that the "maximum *net residential density*... will be 30 units per hectare."
3. The Applicant's Planner states on page 24 of the Planning Justification Report, that the net residential density within the "Low Rise Residential" Designation in the Kitchener Official Plan is 30 units per hectare. The Planner concludes that the Subject Property can be developed for 11 Lots. I disagree. This policy statement is correct, but the application of this density is misleading. This policy should not be applied to individual lots that are the subject of development applications. This net residential density must be applied to all lands within the area including half of the road rights-of-way.
4. I undertook a preliminary calculation of 11 existing Lots in the "R-2" Zone and in the "Low Rise Residential" Designation in the local area. The resulting net residential density is in the order of 2.24 units per hectare. If the townhouses located on the west side of Westwood and the smaller lots further south on Westwood are included in my calculation, the density is higher, but not close to reaching 30 uph.
5. The Applicant is applying for "R-4" zoning on the proposed 2,069 square metre retained lot. Without variances, this retained lot could be divided into 5 lots (2,069/235) with minimum lot frontage of 9 metres in "R-4". In "R-4", the development would consist of 5 single detached dwellings or 6 duplex lots, as-of-right.
6. I conclude that the expectation of 5 single-detached lots in this location is inappropriate in the context of the existing lot pattern in the Glasgow area.
7. An alternative form of infill development could zone the retained lot as "R-3". In this zone, 3 single detached dwelling Lots with a minimum lot width of 13.7 metres could be developed.
8. Historically, the existing "R-2" lots on Glasgow and Westwood are part of the same community. As-of-right, the Subject Property can be divided into two single-detached dwelling lots under the "R-2" Zone.
9. In my opinion, the intensification of the Subject Property (hypothetically from 2 to 3 lots) is good planning only if it zoned as "R-3". This is a reasonable transition from the "R-2" lots to the "R-4" lots located further south on Westwood.



10. In my analysis, I have not assessed physical impacts resulting from the intensification of the Subject Property. I am aware of the immediate concerns raised by the neighbours. If the City of Kitchener is considering the zoning amendment, I recommend that prior to any conclusion by staff and Council, the issues regarding lot grading and storm water management, including any changes in retaining walls, must be first understood and mitigated. As well, the historic woodland that has been fragmented by development needs to be carefully assessed in advance. The trees and the roots of trees on the Subject Property and on the neighboring properties are integral to the aesthetic, visual amenity in the neighborhood. Tree saving and enhancement of species also need to be firmly established prior to any consideration of the zoning application.
11. I caution the City of Kitchener to not amend the Zoning Bylaw, then later deal with the above impacts as site plan issues, without consultation with the neighbors in the community.

I am pleased to provide this independent and objective opinion with the expectation that Kitchener staff and Council will carefully consider the community planning implications arising from the proposed development in this application.

Yours truly,



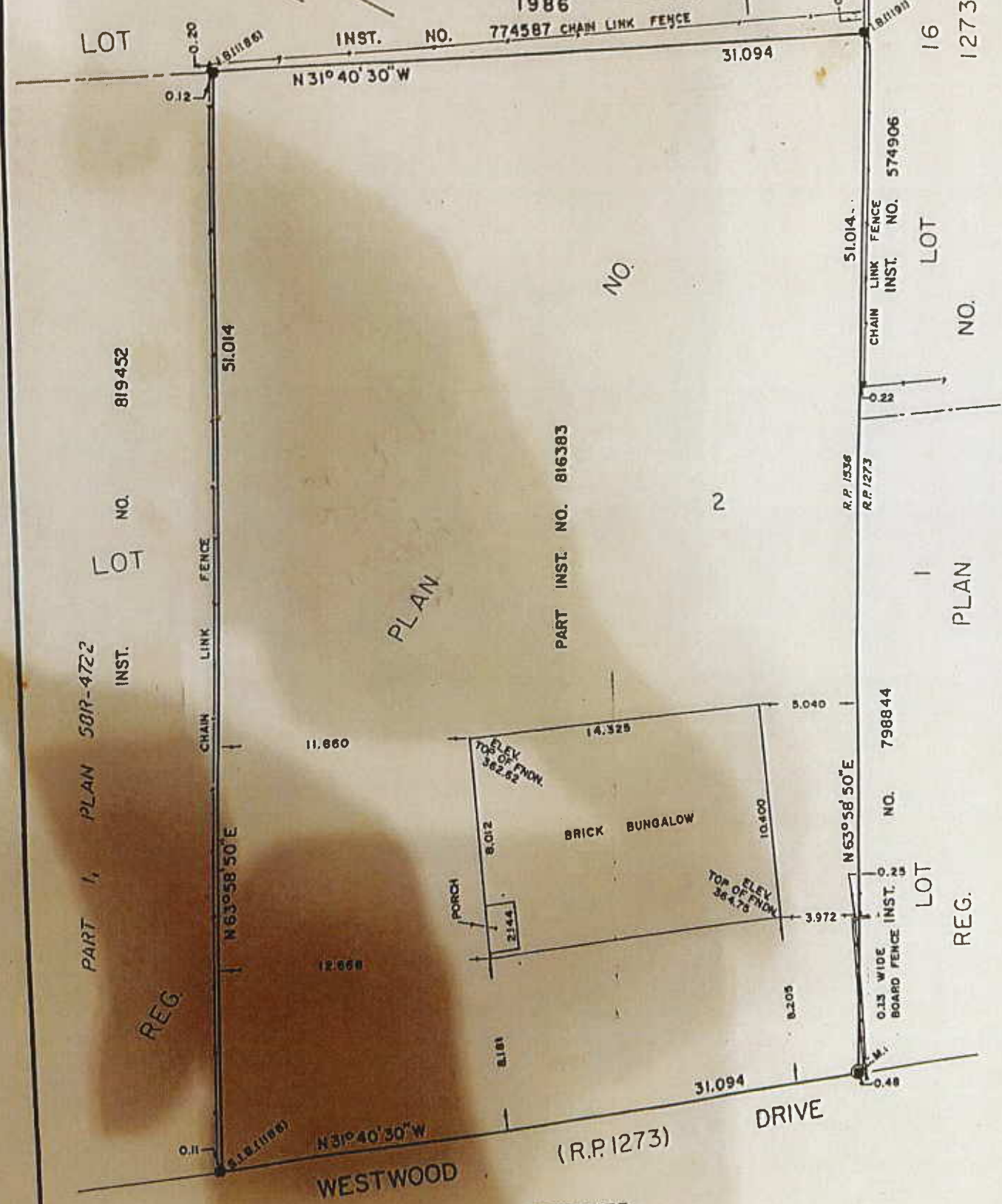
Mark L. Dorfman, F.C.I.P., R.P.P.



TAB 5

BUILDING LOCATION SURVEY SHOWING PART OF LOT 2, REG. PLAN NO. 1536 CITY OF KITCHENER

SCALE: 1cm. = 250cm.
METRIC
METZ & LORENTZ LTD.
1986



LEGEND

◻ DENOTES FOUND MONUMENT

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:
THIS SURVEY AND PLAN ARE CORRECT AND IN
ACCORDANCE WITH THE REGULATIONS UNDER THE

TAB 6



View of wall and common boundary area, looking out of driveway toward Westwood



Further back view of wall and common boundary area, looking out of driveway toward Westwood



View of wall and common boundary area from the second story porch at the front of our house



View of lower section of wall, further into property and showing chain-link fence (property line) embedded among common boundary and cedar hedge clearly evident as part of common boundary



View above wall, showing height of some of the trees within the common boundary



View looking down driveway into the property from Westwood sidewalk with chain-link fence post (property line) visibly embedded in common boundary area



View looking down driveway at wall from Westwood street side with chain-link fence post (property line) visibly embedded in common boundary area



View of the front side of our house, and front door facing directly towards wall and boundary with subject land



Additional view of the front side of our house showing full Eastern extent of house and porch

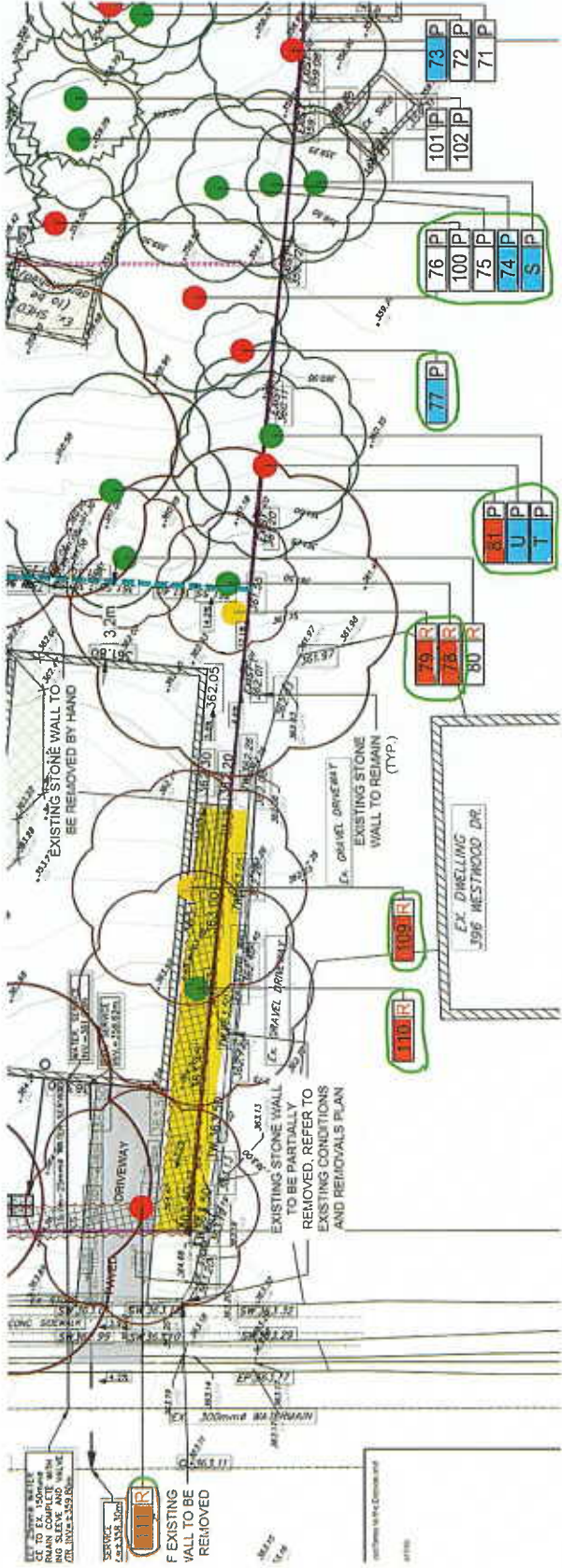


View showing existing forested frontage at subject property 400 Westwood and some of the forested side of 795 Glasgow (forest fronting onto street continues from our property which is not shown on the right all the way to the Northern end of Westwood and wraps around running east all the way down Glasgow to Knell)



Satellite image showing the subject land, 400 Westwood (outlined red) in context of surroundings and designated "Green Belt Neighborhood" (outlined green)

TAB 7



Circled in green – represents all trees which are at risk of collapse or damage from excavation along boundary, grading modifications, removal of retaining wall or removal of nearby/adjacent trees

Highlighted blue – represents all trees which are part of the shared boundary and requiring approval for removal (many of which are incorrectly identified in Arborist report as not being a part of shared boundary)

Highlighted orange – same as above highlighted blue, but in addition; trees for which removal would cause a risk of collapse of the retaining wall

Highlighted yellow – large, dense and mature (>20y.o.) cedar hedge which exists along shared boundary for which removal will also require written approval

TAB 8

ISSUE DATE:

July 08, 2011



Ontario

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

PL110214

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant / Appellant: Chris & Rochell McNabb
Subject: Consent
Property Address/Description: 814 Glasgow Street
Municipality: City of Kitchener
Municipal File No.: B-2010-046
OMB Case No.: PL110214
OMB File No.: PL110214

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant / Appellant: Chris & Rochell McNabb
Subject: Consent
Property Address/Description: 814 Glasgow Street
Municipality: City of Kitchener
Municipal File No.: B-2010-050
OMB Case No.: PL110214
OMB File No.: PL110215

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant / Appellant: Chris & Rochell McNabb
Subject: Minor Variance
Variance from By-law No.: 85-1
Property Address/Description: 814 Glasgow Street
Municipality: City of Kitchener
Municipal File No.: A-2011-017
OMB Case No.: PL110214
OMB File No.: PL110216

APPEARANCES:

Parties

Chris & Rochell McNabb

City of Kitchener

Counsel

Karl D. Jaffary Q.C.

Steve Ross

Region of Waterloo

Debra Arnold

Mr. Doug Good

John V. Cosman

DECISION DELIVERED BY J. P. ATCHESON AND ORDER OF THE BOARD

This was a hearing in the matter of appeals by Chris and Rochell McNabb from decisions of the City of Kitchener, Committee of Adjustment, that refused to grant consents for two residential lots, together with the Committee of Adjustment's decision to refuse to authorize a minor variance from Zoning By-law 85-1 of the City of Kitchener for proposed Lot A, all being Committee of Adjustment files (B-2010-046, B-2010-050 and A-2010-017).

The lots proposed by the Appellants are located on a property known as 814 Glasgow Street in the City of Kitchener. Proposed Lot A is a corner lot at the intersection of Glasgow Street and Silvercrest Drive and would have a frontage of some 26.131 metres on Silvercrest Drive and an overall lot area of some 740.9 sqm. Proposed Lot B would have a lot frontage of some 25.042 metres on Glasgow Street and a lot area of some 929.05 sqm. The retained lands are occupied by an existing residential dwelling, a detached garage and private water and sewage systems. The retained lot would have a frontage of some 24 metres on Silvercrest Drive and a lot area of 2115.1 sqm.

The variance requested applies to Lot A and seeks relief from Section 36.2.1 of Zoning By-law 85-1 of the City of Kitchener to permit a lot area of 740.9 sqm whereas the Zoning By-law 85-1 requires a minimum lot area of 929 sqm. The proposed lot configuration is set out at Exhibit 4, Tab D.

At the commencement of the hearing Mr. Cosman, Counsel for Mr. Good a neighbour, sought party Status. Mr. Good is a resident who lives across the road from the subject property. The Board, with the consent of the other parties, granted Mr. Good party status.

Counsel for the Region of Waterloo advised the Board that the Region took no position with respect to the matters other than to indicate that if the Board was to find in

favour of the Appellant and approved the consents and variance, that the Region would request the inclusion of conditions as set out at Exhibit 2. Similarly, Counsel for the City of Kitchener advised that the City took no position on the matter but requested that if the Board was to find in favour of the Appellant, that the conditions recommended by staff to the Committee of Adjustment as set out at Exhibit 8, be imposed.

All parties on consent indicated that in the event that the Board were to find in favour of the Appellant, that the conditions of the Region and the City were appropriate, bearing in mind the concerns that would be adduced by Mr. Good's witnesses with respect to the City's conditions.

CONTEXT AND THE EVIDENCE

The subject lands consist of a 0.4 hectare residential corner lot. Currently the property is developed with a large single family home (approximately 350 sqm) that sits diagonally and generally in the middle of this well treed lot. The open amenity space associated with the existing home is predominately to the north as shown on Exhibit 6. The property has a frontage of some 53.18 metres on Silvercrest Drive (Waterloo) and a flankage of some 74.37 metres along Glasgow Street (Kitchener) and derives its current access from Silvercrest Drive. The east side of Silvercrest Drive forms the municipal boundary between the Cities of Kitchener and Waterloo. There is a significant change in grade between the road way and subject property along Glasgow Street of about 3 metres, and as such the City of Kitchener when it reconstructed Glasgow Street installed a retaining wall and steel road barrier as shown on Exhibit 6 along a major portion of the northern edge of Glasgow Street right-of-way that abut the subject property as shown on Exhibit 6.

The surrounding land uses consist of a vacant large single family lot to the immediate north, to the west on the opposite side of Silvercrest Drive is a single family residential development on smaller lots (15.3 meter frontages) in the City of Waterloo. A 53-unit Townhouse development exists to the south west, diagonally opposite to the subject lands. Lots to the east and southeast along Glasgow Street consists of larger estate lots which range in size from 0.2 ha to 0.83 ha and with frontages varying from 31.6 to 63.9m. These lots generally consist of larger single family homes in a variety of

housing styles nestled into the former woodlot that covered this area. By all accounts this is an enclave of upscale residential homes in the City of Kitchener. The area by all accounts is stable with some redevelopment of new homes on existing lots. In 2000 one residential lot of some 0.09 ha in area was created by consent some 600 metres to the east of the subject property on the north side of Glasgow Street. This severed lot is located adjacent to a condominium project situated on Briar Patch Lane. Residential lots of similar character but slightly smaller in size exist to the immediate north on Maple Hill Drive. The Maple Hill area gains access from Silvercrest Drive.

The subject lands are governed by a number of both provincial and local planning policy regimes being:

1. The 2005 Provincial Policy Statement;
2. The Growth Plan for the Greater Golden Horseshoe Area;
3. The Region of Waterloo Official Plan which designates the City of Kitchener within the "City Urban Area" (Section 7.3.1.1);
4. The City of Kitchener Official Plan designates the site "Low Rise Residential"; and
5. The new adopted but not yet approved Official Plan for the Region of Waterloo designates the site "Built -Up Area of the Urban Area Neighbourhood".

The planning witnesses all generally agree that the Provincial Planning documents sanction the proposed development on this site and encourage that such urban sites be considered as candidate areas for redevelopment and intensification. The planners also agree that the form and extent of intensification is governed by the policy regime of the in force City of Kitchener's Official Plan and Zoning By-law.

The site is currently zoned by Zoning By-law 85-1 of the City of Kitchener as "Residential Two Zone (R2)" which would permit among other things single-family dwellings on lots with 24 meter frontages with a minimum lot area of 929.0 sq metres. This zone also permits Duplex Dwellings and Residential Care Facilities under the same regulations.

These facts are not in dispute.

The Board, during the course of this two-day hearing, heard from four lay witnesses and the following qualified professionals:

1. Mr. Sandro Bassanese, a qualified Land Use Planner and Urban Designer employed by the City of Kitchener as an Urban Designer, testified under summons regarding the City staff's planning report on the Appellant's applications to the Municipality;
2. Mr. Scott J. Patterson, a qualified Land Use Planner, was retained by the Appellant in the summer of 2010 to assist them in the preliminary planning evaluation of the site and to assist his client in their applications to the Municipality's Committee of Adjustment;
3. Mr. Mark L. Dorfman, a qualified Land Use Planner, was retained by Mr. Good to review the documents filed with the original application as amended and to provide his opinion on the merits of the applications now before the Board.

Mr. McNabb, is the owner/resident with his wife, of the subject property, and is a successful developer. He spoke in favour of the project and advised the Board how he felt the site could be sensitively developed in keeping with the character of the area. The other three lay witnesses, all of whom live in the immediate neighbourhood, testified in opposition to the proposed development raising a list of concerns. However, in the Board's finding, the salient concerns expressed by these residents may be summarized as follows:

1. The proposed development is not in keeping with the general character of the area;
2. The loss of trees on the property;
3. The changes in the existing views of the streetscape along Glasgow Street;
4. The driveway access from Lot B to Glasgow Street is unsafe;

5. The loss of privacy due to change in elevation and proximity of the proposed new homes to the house on the existing lot, and its proximity to Mrs. Kan's home to the immediate east;
6. The proposed development is an over development of the site, resulting in an irregular and chaotic lot pattern;
7. The proposed development will result in a loss of many trees on the site which they view as a negative environmental impact.

There is also general agreement among the planning witnesses regarding the applicable policies of the City of Kitchener Official Plan to be considered in evaluating this proposal. However, their planning opinions vary as to whether the proposal now before this Board and the proposed implementing documents and conditions recommended by the Region and the City of Kitchener's staff conform to these policies. The Planning witnesses also generally agree that the Provincial Policy regimes encourage more compact built form within the built up area of the City of Kitchener and would encourage the intensification of this site. They also agree that the built form and the density of intensification for this site are to be left to the determination of the City through its planning policy documents. They disagree that the Appellant's applications met the Official Plan tests, the criteria for the subdivision of land as set out in Section 51 (24), and the four tests for a minor variance set out in Section 45(1) of the *Planning Act*.

It is clear to the Board the matters in the case are local in nature and would not offend any Provincial policies' directions. Further the City of Kitchener Official Plan encourages in Part 2, Section 1.5:

The creation of additional housing in existing developed areas, through conversion, infill and redevelopment as an appropriate response to needs and to make better use of existing infrastructure and public service facilities.

However, this is not an outright sanction to new more intense development as Section 1.5.3 of the Kitchener Official Plan makes it clear that:

Any new residential buildings, additions to existing buildings, modifications to existing residential buildings and conversions in predominantly low density neighbourhoods shall be consistent with the massing, scale, design and character of that neighbourhood and both appropriate landscaped areas and appropriate parking areas are provided.

Similarly when considering planning approval for a minor variance, Section 1.6 of the City of Kitchener Official Plan requires among other things that:

- i) Any new buildings and any additions and/or modification are appropriate in massing and scale and are compatible with the built form and character of the neighbourhood.
- ii) Front yard setback reductions may be considered for new buildings in established neighbourhoods provided the front yard setback is similar to adjacent properties and supports and maintains the character of the streetscape
- iii) New buildings, additions, modifications and conversions are sensitive to the exterior area of adjacent properties and that appropriate screening and /or buffering is provided to mitigate any adverse impacts.

It was Mr. Patterson's position that the revised application, when considered in light of the conditions being recommended by City staff, would meet the objectives of the Official Plan and that his client through his Preliminary Vegetation Management Plan, Exhibit 5 and Preliminary Grading Plan, Exhibit 6 and proposed building Elevation Plan, Exhibit 7 had on a *prima facie* basis established that the property can be developed as proposed in conformity with the applicable policies of the City's Official Plan and would not offend the criteria for subdividing lands prescribed by the *Planning Act*.

Mr. Dorfman on the other hand opined that the grading as set out in the Preliminary Grading Plan, Exhibit 6, would require either the filling of Lot B or the creation of a bridge in order to access Glasgow Street. He demonstrated his concerns with several elevation cross sections through this proposed lot. He opined that to construct a new home of the elevation proposed on Lot B would result in overview issues with the existing home on the site. He noted that in order to consummate the development plan approximately 40% of the existing dwelling's footprint (the Pool House) would have to be demolished and the proposed western lot line needed to be adjusted to provide the minimum separations required by the Zoning By-law and that this lot configuration was not good planning and would not conform to the applicable

Official Plan policies found in Sections 1.5 and 1.6. It was his evidence that the proposed sighting of the buildings on the proposed lots would create oversight issues with the existing dwelling on the site, did not conform to the policy directions of Section 1.6. iii), and that to create oversight issues was not good planning. It was his opinion that the configuration of the proposed lots was irregular and "Chaotic" and did not represent orderly development of the site. He further, through his study of lot sizes for various corridors in the area, opined that the lot pattern being proposed was not consistent with the lot pattern found in the area, that proposed Lot A was one of the smallest lots in the area when compared to the lots situated to the east along Glasgow Street and would not meet the applicable test of Section 51(24) of the *Planning Act* namely that the proposed lots do not meet the intent of the City of Kitchener's Official Plan and that the dimensions and shape of the proposed lots are not in keeping with the existing lots found in the area.

Mr. Patterson opined that the proposed lots, with the exception of Lot A, meet all of the requirements of the Zoning By-law and that the reduction in this lot area was the result of requests by city staff to maintain the existing private services (the Well) on the retained lot. He opined that the lot configuration was the result of his client's attempt to preserve the trees on the site, a portion of the existing dwelling, and the private services on the site and met the requests of City staff. He opined that the reduction in only the Lot area of Lot A was minor when considered in relation to the smaller lot sizes found to the west and that this site and proposed development provided an appropriate transition from the smaller lots to the west in relation to the larger lots found to the east along Glasgow Street. Mr. Dorfman, on the other hand, opined that there was no compelling planning reason to create a transition where one is not required. He noted the Glasgow neighbourhood is intact and that the existing lots in this area have existed for more than fifty years without any significant fragmentation.

Mr. Sandro Bassanese testified that in his opinion the conditions being recommended by City staff would protect much of the vegetation on the site. He anticipated from the Preliminary Vegetation Management Plan, Exhibit 5, that eight mature maple trees would be lost as a result of the development pattern being proposed. Mr. Dorfman believes that more trees may be affected. Mr. Bassanese freely admitted, under cross examination, that the posting of performance securities and the ability for the City to enter upon the site to enforce the proposed conditions were

important requirements of any agreement sanctioning the development of the property. The Board has no doubt that the City can develop an appropriate subdivision agreement to protect the public interest in this case and further that such an agreement should and would be a requirement for any redevelopment of this site that considered intensification. However, the test in the first instance is whether the revised proposed lotting pattern represents good long-term planning for this area of the City of Kitchener.

FINDINGS AND CONCLUSIONS

The Board, after carefully reviewing the evidence, the exhibits filed and the submissions made by the parties and the participants, makes the following findings.

It is clear that in recent years one of the major thrusts of Provincial Policy has been the more efficient use of our municipal infrastructure within urban areas and that intensification within urban areas is a significant tool in achieving this objective. There is no evidence that the City of Kitchener has not been or is not currently following this Provincial Policy direction. It is also equally clear that the subject site is an excellent candidate for redevelopment and that any form of residential redevelopment that increased the number of residential dwelling units in the site regardless of its density would qualify as intensification.

The Provincial mandate for intensification is not a licence to abandon sound planning principals, or to diminish appropriate land use planning standard in search of more density. Alternatively, intensification requires sensitive design as stated in the City of Kitchener's Official Plan that "shall be consistent with the massing, scale, design and character of that neighbourhood and both appropriate landscaped areas and appropriate parking areas are provided."

The Board would note that the existing zoning standards of the City of Kitchener covering this area are substantial in comparison to contemporary residential zoning standards found to the immediate west. However, the facts in this case are that the standards established by Zoning By-law 85-1 of the City of Kitchener being "Residential Two Zone (R2)" are minimum standards when compared to the development that has already occurred in this area and provides a suitable regulatory framework for the

intensification of this area. The Board finds in this case that to further reduce the lot area standard for Lot A would not result in appropriate development consistent with the form of development that characterizes this neighbourhood of the City of Kitchener, and that on this basis the relief sought for proposed Lot A is not minor and would not meet the intent and purpose of the City of Kitchener's Official Plan and Zoning By-law and would not result in the appropriate development of this area.

The Board appreciates that the lot pattern being proposed results from attempts to preserve the existing private infrastructure of the existing residence which in no small part results from the location of the existing residence and its private infrastructure on this property. However, in the Board's finding these efforts result in a lot pattern that is inconsistent and not compatible with the existing lot pattern in the area and does not maintain the character of the streetscape as required by the City of Kitchener's Official Plan.

The reduction in lot area in this case is the function of preserving an existing well on the retained parcel. The more compelling evidence is that full municipal services are available in this area requiring only normal extensions of this infrastructure. To create a new development scheme designed to avoid full municipal services in an urban area as part of a proposal to intensify the level of development on the site in the Board's finding is not good planning. In this regard the Board finds that the City staff had it right when they first considered the application and stated that:

Staff is of the opinion that this lotting pattern does not conform with the scale and character of the neighbourhood.

The Board finds that the minor changes to the lotting pattern of Lot A resulting in its reduced lot area to ensure that the existing well is on the retained property is an engineering and servicing issue but does not alter the fundamental soundness of staff's original opinion. Nor does the Board find that the Preliminary Vegetation Management Plan, Exhibit 5, the Preliminary Grading Plan, Exhibit 6 and proposed building Elevation Plan, Exhibit 7, demonstrate that this minor change to Lot A in any significant way alters the irregular lotting pattern or is an appropriate rationale to abandon the lotting pattern that characterizes the area. Nor does the Board conclude that the lotting pattern has been specifically changed to protect the trees on the site. Under a more regular and consistent lotting pattern the protection of the existing trees as much as possible would

still be an issue requiring the City's attention. The Board concludes that the revised lotting pattern does not conform with the lotting pattern currently found in the neighbourhood which constitute the scale and character of the Glasgow Street neighbourhood. Furthermore the reasons given by the Appellant's planning witness to change the lotting pattern to that being proposed are not compelling and do not represent good long-term planning for this area.

The Board in this regard prefers the opinions of Mr. Dorfman that the lot pattern will result in overview issues from the new lots to the existing dwelling that this situation could and should be avoided. This proposed lotting pattern in the Board's finding does not constitute good planning consistent with the requirements of the City of Kitchener's Official Plan Sections 1.5 and 1.6 and the criteria of Sections 51. (24). (c), (d) and (f) of the *Planning Act*. Furthermore, for the reasons indicated earlier in this decision the Board concludes that the minor variance for proposed Lot A does not meet the four tests of Section 45. (1) the *Planning Act*

Accordingly and for the reasons contained in the decision:

1. **THE BOARD ORDERS** that the appeal from the decision of the Committee of Adjustment of the City of Kitchener (File No.: (B-2010-046) is denied and the provisional consent is not to be given.

2. **THE BOARD ORDERS** that the appeal from the decision of the Committee of Adjustment of the City of Kitchener (File No. B-2010-050) is denied and the provisional consent is not to be given.

3. **THE BOARD ORDERS** that the appeal from the decision of the Committee of Adjustment of the City of Kitchener (File No. A-2010-017) is denied and the minor variance is not authorized.

This is the **Order of the Board**.

"J. P. Atcheson"

J. P. ATCHESON
MEMBER

TAB 4

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

CITY OF KITCHENER

The Committee of Adjustment held an electronic meeting this date, commencing at 10:00 a.m.

Present: D. Cybalski - Chair
B. McColl
J. Meader
S. Hannah
M. Kidd

Officials: J. von Westerholt, Senior Planner
S. Ryder, Traffic Planning Analyst
G. Stevenson, Senior Planner
C. Dumart, Planner
S. Goldrup, Committee Administrator
D. Saunderson, Secretary-Treasurer

MINUTES

Moved by B. McColl
Seconded by J. Meader

That the regular minutes of the Committee of Adjustment meeting held March 16, 2021, as circulated to the members, be accepted.

Carried

UNFINISHED BUSINESS:

CONSENT APPLICATION:

- Submission No.:** B 2020-047
Applicant: Michael Krause
Property Location: 50 Brookside Crescent
Legal Description: Part Block O & Park Block 87, Plan 1334, being Parts 1 & 3 on Reference Plan 58R-20390

Appearances:

In Support: M. Krause
O. Scott

Contra: L. Geisel
C. Laderoute

Written Submissions: Neighbourhood Petition
C. Laderoute

The Committee was advised the applicant is requesting permission to sever a parcel of land on the westerly edge of the property (future municipal address 52-54 Brookside Crescent), having an approximate width of 16.2m, a depth of 33.5m and an area of 542.7 sq.m. The retained land will be irregular in shape having an approximate width of 35m, a depth of 43.5m and an area of 1523 sq.m. The severed lot is intended for a semi-detached dwelling.

The Committee considered Development Services Department report DSD-2021-23 dated March 5, 2021, recommending approval of this application, subject to the conditions outlined in the Report; as well as, Development Services Department report DSD-2021-55 dated April 12, 2021, which was a follow-up reported the requested from the deferral from the Committee's meeting on March 16, 2021.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated November 26, 2020, advising they have no objection to this application subject to the following condition:

1. Submission No.: B 2020-047 (Cont'd)

1. That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per new lot created.

Michael Krause and Owen Scott were in attendance in support of the subject application and staff recommendation.

Christine Laderoute and Luanne Geisel were in attendance in opposition to the subject application. C. Laderoute expressed concerns with the age of the smokehouse/shed noting she had provided newspaper articles for the Committee's consideration that help to corroborate the construction date, which is beyond what was identified in the Heritage Impact Assessment provided with the application. C. Laderoute stated additional concerns related to: the proposed height and setbacks of the semi-detached dwelling; concerns for on-street parking; and, the location of the fence between the proposed severed parcel and the property municipally addressed as 58 Brookside Crescent.

M. Krause stated he has tried to respond to the concerns of the neighbourhood, noting ultimately, he would rely on City approvals for what would be constructed on the proposed lot. M. Krause indicated through this process there have been false statements made about the dwelling constructed to the right of the subject property, noting when he completed that severance he sent a letter to the adjacent neighbours advising of this intentions related to that development. M. Krause noted the written submission provided by the neighbours related to the subject application include statements about that development that are factually inaccurate. M. Krause further advised he has done significant work since the March Committee of Adjustment to meeting to address the concerns of the neighbourhood and has proposed several changes including increasing the front yard setback of the proposed dwelling, as well as decreasing the size of the proposed lots. In response to comments related to the garden suite which is intended to be retained on the subject property, M. Krause stated in his opinion that building should have no relevance to the requested application.

G. Stevenson advised Planning staff held an electronic meeting with the neighbourhood as soon as elevation drawings were received. Discussions took place related to possible solutions or changes that may be required to address the concerns of the neighbourhood. Although all of the changes proposed by the applicant may not address the full limit of concerns raised, the applicant has proposed reducing the size of the lots, as well as the footprint of the building, and increasing the front yard setback more inline with the property municipally addressed as 58 Brookside Crescent. G. Stevenson further advised the building has also been staggered at the request of the City's Urban Design staff and reversed in orientation so the porch rather than the garage is adjacent to 58 Brookside Crescent.

In response to questions, G. Stevenson advised the applicant has expressed the desire to maintain the shed currently located at the rear of the proposed severed lot as Council at its most recent Planning & Strategic Initiatives Committee considered a report that would permit the use of Tiny Homes within the City's Zoning By-law. The applicant wishes to maintain the shed/garden suite as a small dwelling unit on the subject property.

Questions were raised regarding the condition outlined in the staff report related to the applicant requiring approval of the elevation drawings but he Director of Planning and whether it should be updated to include reference to elevation drawings circulated to the Committee this date. G. Stevenson stated if the Committee would like to provide additional direction related to the elevation drawings that condition could be amended, but ultimately the condition clearance should still be to the satisfaction of the Director of Planning as they are the only ones with the authority to provide that approval.

B. McColl advised he had done a site visit of the property and expressed concerns with the development that was constructed to the right of the subject property through the previous severance application and its compatibility with the neighbourhood. B. McColl noted the elevation drawings submitted for the new lot do seem more consistent with the neighbourhood. B. McColl indicated he was in support of the revised front yard setback and the proposed building being more staggered in relation to the adjacent property. B. McColl further advised he would have preferred to see additional information related to the shed and how it was constructed to possibly confirm the date its construction.

1. Submission No.: B 2020-047 (Cont'd)

In response to questions, L. Geisel advised she is still not satisfied with the subject application, regardless of the proposed changes suggested by the applicant.

In response to questions, G. Stevenson advised the setback of the proposed semi-detached dwelling would have a setback of 7.8m whereas the property municipally addressed as 58 Brookside Crescent currently has a setback of 7.5m which determined using the City's GIS mapping software.

M. Krause stated comments were made about the materials used to construct the shed, noting it has a newer cedar roof, parging, wiring, newer garage door and stonework which similar but not consistent with the original home. M. Krause stated he received a letter from C. Laderoute prior the to meeting this date and the letter suggests a personal and emotional attachment with a previous property owner and specific attributes of the property. M. Krause stated the in his opinion the reasons that have been expressed by the neighbourhood should not prevent this project from moving forward.

J. Meader stated the comments made about the desire to retain the coach house at the rear of the proposed severed not being relevant, in her opinion is inaccurate. The proposed severance creates an irregular shaped lot, noting when the Committee considers a severance application the Planning Act has criteria outlined in Section 51 (24), which states "the shape and dimensions of the new lots, is one of the criteria that must be considered when approving a severance". J. Meader commented the purpose for maintaining that portion of the property would be to maintain additional living space in the rear yard of people's amenity space. J. Meader noted although staff are supportive of that proposed lots, she did still have some concern with the proposed lot fabrics.

S. Hannah stated he is in opposition with the subject application. S. Hannah noted the proposed lot severance is for the creation of one lot, theoretically someone could construct a single detached dwelling rather than the proposed semis. S. Hannah stated if the Committee approves the application the recommendation may need to be amended to approve the proposed depth of 31.69m which was included in the elevation drawings submitted to the Committee this date. S. Hannah stated it would be his preference to see a severance application that was the full depth of the property rather than retaining the coach house in the rear of the severance.

B. McColl advised he was in agreement with the comments from the previous Committee members, if the proposed lots included the whole depth of the property and the proposed guest cottage was removed than the footprint of the project could be setback approximately 12m from the property line. B. McColl indicated he was in agreement with staff and the proposed setback with 54 Brookside Crescent is almost inline with 58 Brookside Crescent. B. McColl stated he could support the application if the guest cottage was removed and the severance went the full depth of the property. With higher density targets, he would be in support of subject application.

M. Kidd stated the existing dwelling is aesthetically pleasing that should be retained. M. Kidd indicated he was in support of extending the use of the property and as long as the proposed dwelling was consistent in with the neighbourhood or even the farmhouse, there is balance that could be achieved.

D. Cybalski stated the Committee must take into consideration of lot fabric and how the proposed lots would suit with the adjacent properties. D. Cybalski generally when new lots are created the severance would not leave a remanent portion in the rear, that is not necessarily good planning.

In response to questions, G. Stevenson advised the R4 Zone permits a front yard setback of 4.5m for a porch and 6m for proposed garage with the required parking. G. Stevenson indicated the R4 Zoning does permit a semi-detached dwellings and if the Committee did consider approving the application the decision would need to be amended to reflect a depth of 31.69m to have greater separation between the dwelling.

The Chair noted the only matter before the Committee this date is a severance application, stating the applicant has proposed concessions to address the concerns of the neighbourhood noting the permitted Zoning would allow him to construct closer to the lot line than what is being proposed.

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

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CITY OF KITCHENER

1. Submission No.: B 2020-047 (Cont'd)

S. Hannah noted he was leaning towards requesting a deferral, noting concerns with amending the Heritage Designation By-law to remove the severed property from the designation. S. Hannah further advised currently he was unable to support the size and shape of the lot as proposed, indicating the proposed elevations do not adequately address his concerns. S. Hannah stated he was hoping to see a setback on the left adjacent to 58 Brookside Crescent of 7.8m and 10.96m adjacent to the heritage dwelling. S. Hannah further advised he would prefer to see a severance going the entire depth of the property.

J. Meader stated if the Committee was considering a deferral of the application, from the comments previously stated from the Committee members, it would permit the applicant an opportunity to reconsider the size and shape of the proposed lot. From the comments expressed from the applicant it appears he is unwilling to amend his application to include the back portion of the property containing the garden suite.

S. Hannah stated he is not able to support this application as proposed.

B. McColl questioned whether the Committee was interested in a further deferral to review the front yard setback. S. Hannah indicated he was only willing to defer the application if the applicant was willing to revisit the size of the proposed severance.

M. Krause stated he was disappointed with some of the comments being expressed. M. Krause advised the garden suite which is proposed to be maintained has been occupied for 6-years. The unit has adequate parking on the subject property and the use of the dwelling will be permitted pending approval of the Zoning By-law amendment which addresses tiny homes. M. Krause stated he was not willing to consider the removal of the garden suite. M. Krause indicated he was reluctant to accept a deferral, but a premature decision of the Committee would be made if staff required additional information on the use of the garden suite.

B. McColl stated it appears there is some confusion on the current situation related to the garden suit at the rear of the proposed severance, one plan noting building as a shed, another plan noting it as a garden suite. B. McColl stated the applicant has accepted the option for a deferral for additional information to be provided.

B. McColl brought forward a motion to defer the subject application to get more clarification on the heritage aspect of the entire property and whether the front yard setbacks of the proposed dwelling could be more sympathetic to the adjacent properties.

G. Stevenson requested clarification on the scope of the deferral, noting specifically related to additional information related to the heritage of the property, a Heritage Impact Assessment was provided and considered by Heritage Kitchener in support of the application.

B. McColl stated he was referencing S. Hannah's comments related to the heritage of the entire property. B. McColl questioned whether modification would be required to update the heritage designation. G. Stevenson noted the condition would give the City the authority to amend the designation by-law to remove reference to the severed property within the designation. G. Stevenson stated if the committee was considering a deferral staff would require the full nature of the deferral and what additional information the Committee may require in advance of the May meeting. In response to further questions, G. Stevenson advised the heritage designation by-law addresses the home and the architectural style of the dwelling, it does not reference the shed or garage of having historical significance.

In response to questions, B. McColl indicated the garage, smokehouse and shed are of no historical value and that they were built to suit the style of the dwelling and they have not been substantiated to be heritage items. In regard to the comments from G. Stevenson related to the heritage designation B. McColl removed the request for additional heritage information from his motion to defer.

S. Hannah indicated he would like to see a revised site plan that would see setbacks that were more sympathetic to both 58 Brookside Crescent and 50 Brookside Crescent, as well as information related to the use of the garden shed.

COMMITTEE OF ADJUSTMENT MINUTES

APRIL 20, 2021

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CITY OF KITCHENER

1. Submission No.: B 2020-047 (Cont'd)

B. McColl brought forward a motion to defer the subject application to get additional clarification on the garden suite and its current uses; as well as the front yard setback and whether they can be more sympathetic with the adjacent properties municipally addressed as 58 and 50 Brookside Crescent.

**Moved by B. McColl
Seconded by M. Kidd**

That the application of MICHAEL KRAUSE requesting permission to sever a parcel of land on the westerly edge of the property (future municipal address 52-54 Brookside Crescent), having an approximate width of 16.2m, a depth of 33.5m and an area of 542.7 sq.m. **BE DEFERRED to the May 18, 2021 Committee of Adjustment meeting** to get additional clarification on the garden suite and its current uses; as well as the front yard setback and whether they can be more sympathetic with the adjacent properties municipally addressed as 58 and 50 Brookside Crescent, on Part Block O & Park Block 87, Plan 1334, being Parts 1 to 3 on Reference Plan 58R-20390, 50 Brookside Crescent, Kitchener, Ontario.

Carried

NEW BUSINESS:

MINOR VARIANCE APPLICATION:

- i. **Submission No.:** A 2021-031
- Applicants:** Varinder Purewal and Rajvinder (Bobbie) Chatha
- Property Location:** 660 Avondale Avenue
- Legal Description:** Lot 16 & Part Lot 17, Plan 349

Appearances:

In Support: J. O'Malley
V. Purewal
R. Chatha

Contra: D. & M. Reid E. Plach & R. Wallwork
J. Robinson T. Glover
B. Trotter F. Millard

Written Submissions: A. Stahlke G. Smith
D. & M. Reid R. Donaldson
J. Finney J. Robinson
J. McCormick M. Cadotte & E. McCarron
C. Boehmer S. Munroe
T. Glover B. Trotter
F. Millard C. Trotter
E. Plach & R. Wallwork

The Committee was advised the applicant is requesting permission to construct a single detached dwelling having a rear yard setback 4.7m rather than the required 7.5m. The existing dwelling will be demolished.

The Committee considered Development Services Department report DSD-2021-57 dated April 13, 2021 recommending deferral of the subject application to provide an opportunity for the owner to prepare and submit a satisfactory Tree Preservation / Enhancement Plan, in advance of a decision by the Committee of Adjustment.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

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1. Submission No.: A 2021-031 (Cont'd)

Moved by B. McColl
Seconded by S. Hannah

That the application of Varinder Purewal and Rashvinder Chatha requesting permission to construct a single detached dwelling having a rear yard setback 4.7m rather than the required 7.5m **BE DEFERRED to the May 18, 2021 Committee of Adjustment meeting** to allow additional time for the applicant to opportunity for the owner to prepare and submit a satisfactory Tree Preservation / Enhancement Plan, on Lot 16 & Part Lot 17, Plan 349, 660 Avondale Avenue, Kitchener Ontario.

Carried

UNFINISHED BUSINESS (CONT'D):

COMBINED APPLICATIONS:

1. **Submission No.:** B 2021-011 and A 2021-033
Applicant: Grand River Conservation Authority
Property Location: Fairway Road and Woolner Trail
Legal Description: Part of Lot 9 and 14, Registered Plan 591

Appearances:

In Support: K. Muir
J. Passey

Contra: None

Written Submissions: D. Woolner
L. Kotseff

The Committee was advised the applicant is requesting permission to sever a parcel of land that is approximately 6.92 hectares (17.1 acres) in size.

The Committee considered Development Services Department report DSD-2021-53 dated April 11, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated March 18, 2021, advising they have no objection to application B 2021-014 subject to the following conditions:

1. The owner/applicant is required to enter into an agreement with the Regional Municipality of Waterloo to complete a detailed environmental/stationary noise study prior to Site Plan approval for the severed lands and, if necessary, enter into a further supplementary agreement to secure implementation of the recommendations of the noise study.
2. Notwithstanding Regional Condition 1 above, that prior to final approval, the owner/applicant enter into an agreement with the Region of Waterloo for the severed lands, to include the following warning clause on all offers to purchase and/or rental agreements:
 - i. "Prospective purchasers and tenants are advised that the entire property comprising the severed lands are located within or in close proximity to one of the flight paths leading into and out of the Region of Waterloo International Airport and that directional lighting along this flight path may cause concern to some individuals".
3. That prior to final approval, the owner/applicant removes any easements no longer required on the severed and retained lands, to the satisfaction of the Region of Waterloo.

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1. Submission No.: B 2021-011 and A 2021-033 (Cont'd)

4. That prior to final approval, the owner/applicant enter into an agreement with the Region of Waterloo, to complete a Salt Management Plan for the severed lands prior to Site Plan approval.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with applications A 2021-033.

The Committee considered the report from the Grand River Conservation Authority, dated March 1, 2021 advising they have no concerns with the subject application.

The Chair noted a clerical error in the staff report, stating the approval should remove the request for a deferral from the Committee's decision this date. It was further noted the Comments from the Region of Waterloo and Grand River Conservation Authority (GRCA) should be included in the Committee's decision this date.

Kevin Muir and Jennifer Passy were in attendance in support of the subject application and staff recommendation.

Submission No.: B 2021-011

Moved by J. Meader
Seconded by S. Hannah

That the application of GRAND RIVER CONSERVATION AUTHORITY requesting permission to sever a vacant irregular shaped parcel at the corner of Fairway Road North and Old Zeller Drive having a width on Old Zeller Drive of approximately 159.862m and an area of 6.92 hectares, on Part of Lot 9 and 14, Registered Plan 591, Fairway Road and Woolner Trail, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall provide 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 sized 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.
2. The owner shall to enter into an agreement with the Regional Municipality of Waterloo to complete a detailed environmental/stationary noise study prior to Site Plan approval for the severed lands and, if necessary, enter into a further supplementary agreement to secure implementation of the recommendations of the noise study.
3. The owner shall enter into an agreement with the Region of Waterloo for the severed lands, to include the following warning clause on all offers to purchase and/or rental agreements:

"Prospective purchasers and tenants are advised that the entire property comprising the severed lands are located within or in close proximity to one of the flight paths leading into and out of the Region of Waterloo International Airport and that directional lighting along this flight path may cause concern to some individuals".
4. That the owner shall remove any easements no longer required on the severed and retained lands, to the satisfaction of the Region of Waterloo.
5. That the owner shall enter into an agreement with the Region of Waterloo, to complete a Salt Management Plan for the severed lands prior to Site Plan approval.
6. That the owner shall receive final approval of Minor Variance application A2021-033.
7. That the owner shall make satisfactory financial arrangements with the Grand River Conservation Authority (GRCA) for the application review fee.

It is the opinion of this Committee that:

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1. Submission No.: B 2021-011 and A 2021-033 (Cont'd)

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

Submission No.: A 2021-033

Moved by J. Meader
Seconded by S. Hannah

That the application of GRAND RIVER CONSERVATION AUTHORITY requesting permission for the severed land identified in Consent Application B 2021-011 intended for use by the Waterloo Catholic District School board to have a lot width of 150m rather than the required 300m; and, an area of 6.9 hectares rather than the required 40 hectares, on Part of Lot 9 and 14, Registered Plan 591, Fairway Road and Woolner Trail (Vacant Land), Kitchener, Ontario, **BE APPROVED**.

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

NEW BUSINESS (CONT'D):

MINOR VARIANCE APPLICATIONS:

1. **Submission No.:** A 2021-019
Applicant: Milestone Developments Inc.
Property Location: 30 Waterbow Trail
Legal Description: Lot 59, Plan 58M-605

Appearances:

In Support: P. Haramis

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1. **Submission No.:** A 2021-019 (Cont'd)

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to construct a single detached dwelling having a southerly side yard abutting Valleybrook Drive of 4.1m rather than the required 4.5m; a southerly side yard abutting Valleybrook Drive for a non-enclosed porch of 2.74m rather than the required 3m; and, a driveway setback of 7.6m from the intersection of Waterbow Trail and Valleybrook Drive rather than the required 9m.

The Committee considered Development Services Department report DSD-2021-33 dated March 5, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with the subject application.

Moved by B. McColl
Seconded by Mike Kidd

That the application of MILESTONE DEVELOPMENTS INC requesting permission to construct a single detached dwelling having a southerly side yard abutting Valleybrook Drive of 4.1m rather than the required 4.5m; a southerly side yard abutting Valleybrook Drive for a non-enclosed porch of 2.74m rather than the required 3m; and, a driveway setback of 7.6m from the intersection of Waterbow Trail and Valleybrook Drive rather than the required 9m, on Lot 59, Plan 58M-605, 30 Waterbow Trail, Kitchener, Ontario, **BE APPROVED**.

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

2. **Submission No.:** A 2021-026
Applicants: Katrina Cove-Shannon
Property Location: 11 Whitney Place
Legal Description: Lot 260, Subdivision of Lot 17, German Company Tract

Appearances:

In Support: T. Bauman

Contra: None

Written Submissions: None

The Committee was advised the applicants are requesting permission to reconstruct the front porch on an existing single detached dwelling having an easterly side yard setback of 0.78m rather than the required 1.2m; a front porch setback of 2.64m rather than the required 4.7m; and, a 2.64m encroachment into the Driveway Visibility Triangle (DVT) whereas the By-law does not permit encroachments into the 4.5m DVT.

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2. **Submission No.:** A 2021-026 (Cont'd)

The Committee considered Development Services Department report DSD-2021-056 dated April 13, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Moved by S. Hannah
Seconded by J. Meader

That the application of KATRINA COVE-SHANNON requesting permission to reconstruct the front porch on an existing single detached dwelling having an easterly side yard setback of 0.78m rather than the required 1.2m; a front yard setback of 2.64m rather than the required 4.7m; and, for the proposed porch to encroach into the Driveway Visibility Triangle (DVT) whereas the By-law does not permit encroachments into the 4.5m DVT, on Lot 260, Subdivision of Lot 17, German Company Tract, 11 Whitney Place, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

3. **Submission No.:** A 2021-027
Applicants: Milos Posavljak
Property Location: 573 Guelph Street
Legal Description: Lot 17, Plan 749

Appearances:

In Support: I. Cekic
M. Posavljak

Contra: None

Written Submissions: None

The Committee was advised the applicants are requesting permission to construct a semi-detached dwelling on a lot having a width of 14.96m rather than the required 15m; and, an easterly side yard setback of 0.94m and a westerly side yard setback of 0.91m rather than the required 1.2m.

The Committee considered Development Services Department report DSD-2021-19 dated April 9, 2021 recommending approval of the subject application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Ivana Cekic and Milos Posavljak were in attendance in support of the subject application. In response to questions I. Cekic indicated she was not aware this date of that windows would not be permitted in the side façade of the dwelling. S. Hannah noted if windows are preferred in the side yard the Building Code will require a side yard setback of 1.2m.

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3. Submission No.: A 2021-027 (Cont'd)

Moved by J. Meader
Seconded by B. McColl

That the application of MILOS POSAVLJAK requesting permission to construct a semi-detached dwelling on a lot having a width of 14.96m rather than the required 15m; and, an easterly side yard setback of 0.94m and a westerly side yard setback of 0.91m rather than the required 1.2m, on Lot 17, Plan 749, 573 Guelph Street, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

4. Submission No.: A 2021-028
Applicants: Ilseadore Kautsky
Property Location: 11 Springdale Drive
Legal Description: Lot 5, Plan 1129

Appearances:

In Support: I. Kautsky
N. Kautsky

Contra: None.

Written Submissions: None.

The Committee was advised the applicants are requesting permission to have a home office in the basement of an existing single detached dwelling having one off-site employee whereas the By-law does not permit off-site employees; and, to 2 separately accessed off-street parking spaces rather than the required 3 separately accessed off-street parking spaces.

The Committee considered Development Services Department report DSD-2021-59 dated April 12, 2021 recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Ilseadore Kautsky and Nadine Kautsky were in attendance in support of the subject application. I. Kautsky provided an overview of the subject application, stating the employee that attends her home is her daughter who lives on the same street and walks to the subject property.

Questions were raised regarding the width of the driveway, J. von Westerholt noted the applicant would prefer not to widen the driveway, stating he need for the variance is to allow the reduction in one required parking space. The applicant would have required 3 off-street parking space and the property can only accommodate 2 off-street spaces.

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4. **Submission No.:** A 2021-028 (Cont'd)

S. Hannah suggested and it was agreed that the deadline outlined in Condition 2 of the staff report should be June 1, 2022 rather than June 1, 2021 to allow additional time for the applicant to obtain their occupancy certificate.

Moved by S. Hannah
Seconded by B. McColl

That the application of ILSEDORE KAUTSKY requesting permission to have a home business (office for online sales) having one employee in an existing single detached dwelling to have 2 separately accessed off-street parking spaces rather than the required 3 separate off-street parking spaces, on Lot 5, Plan 1129, 11 Springdale Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. The owner shall obtain a Zoning (Occupancy) Certificate from the Planning Division.
2. That condition 1 above be completed by June 1, 2022. Any request for a time extension must be approved in writing by the Manager of Development Review (or designate) prior to completion date set out in this decision. Failure to complete the conditions will result in this approval becoming null and void.

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

5. **Submission No.:** A 2021-029
Applicant: Chris Coles
Property Location: 20 Munroe Street
Legal Description: Part Lot 19, Registered Plan 861

Appearances:

In Support: C. Coles

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to convert an existing single detached dwelling into a duplex having the required off-street parking located 1m from the property line rather than the required 6m.

The Committee considered Development Services Department report DSD-2021-44 dated April 9, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Chris Coles was in attendance in support of the application.

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5. Submission No.: A 2021-029 (Cont'd)

In response to questions, J. von Westerholt advised if the applicant is required to widen the driveway to accommodate the conversion of the garage, it would not necessarily necessitate the requirement to cut the curb. D. Seller stated if and when a property owner requests a driveway widening staff would review whether a curb cut was required and whether it would impact any boulevard trees, or street furniture etc.

S. Hannah brought a motion forward to approve the subject application, including a condition that the owner shall widen the driveway to accommodate 2-off street parking spaces to the satisfaction of the Director of Planning prior to the issuance of a building permit.

Moved by S. Hannah
Seconded by B. McColl

That the application of CHRISTOPHER NORMAN COLES requesting permission to convert an existing single detached dwelling into a duplex having the required off-street parking located 1m from the property line rather than the required 6m, on Part Lot 19, Registered Plan 861, 20 Munroe Street, Kitchener, Ontario, **BE APPROVED**, subject to the following condition:

1. That the owner shall widen the driveway to accommodate 2-off street parking spaces to the satisfaction of the Director of Planning prior to the issuance of a building permit.

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

6. **Submission No.:** A 2021-030
Applicants: 2441912 Ontario Inc.
Property Location: 80 Courtland Avenue East
Legal Description: Lot 191, Subdivision of Lot 17, German Company Tract

Appearances:

In Support: C. Lusty
A. Sinclair

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to convert the existing office building into a health office having a parking rate of 1 off-street parking space per 26 sq.m. of Gross Floor Area (GFA) rather than the required 1 off-street parking space per 15 sq.m. GFA.

The Committee considered Development Services Department report DSD-2021-45 dated April 9, 2021 recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

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6. Submission No.: A 2021-030 (Cont'd)

Andrea Sinclair and Chris Lusty were in attendance in support of the subject application. A. Sinclair noting following a discussion and confirmation with City staff she requested Condition 1 of the staff recommendation be amended to note the requirement of a Stamp Plan B Site Plan approval, noting the wording could suggest full Site Plan approval being required.

J. von Westerholt indicated if the applicant has clarified that requirement, she indicated she had no concerns with amending the condition to specify Stamp Plan B Site Plan approval.

The Committee agreed to amend Condition 1 of the staff recommendation to indicate the requirement of a Stamp Plan B Site Plan approval.

Moved by B. McColl
Seconded by S. Hannah

That the application of 2441912 ONTARIO INC requesting permission to convert the existing office building into a health office having a parking rate of 1 off-street parking space per 26 sq.m. of Gross Floor Area (GFA) rather than the required 1 off-street parking space per 15 sq.m. GFA, on Lot 191, Subdivision of Lot 17, German Company Tract, 80 Courtland Avenue East, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain Stamp Plan B Site plan approval to the satisfaction of the Manager of Site Development and Customer Service.
2. That the owner shall obtain a Zoning (Occupancy) Certificate from the Planning Division to establish the Health Office/Clinic use on the property.
3. That the owner shall complete all conditions prior to June 1st, 2022. Any request for a time extension must be approved in writing by the Manager of Development Review (or designate), prior to the completion date set out in this decision. Failure to fulfill these conditions, will result in this approval becoming null and void.

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

M. Kidd left the meeting at this time.

7. **Submission No.:** A 2021-032
Applicants: Stephanie Catcher and George Chambers
Property Location: 81 Waterloo Street
Legal Description: Part Lot 382, Plan 378

Appearances:

In Support: S. Catcher

Contra: None

Written Submissions: None

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7. Submission No.: A 2021-032 (Cont'd)

The Committee was advised the applicant is requesting permission to construct a roof over an existing deck in the rear yard of a single detached dwelling having a rear yard setback of 4m rather than the required 7.5m.

The Committee considered Development Services Department report DSD-2021-48 dated April 8, 2021 recommending approval of this application.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with this application.

Stephanie Catcher were in attendance in support of the subject application and staff recommendation. In response to questions, S. Catcher stated the proposed covered deck will be one storey in height but will be fully enclosed with screens and a lock for added security on the property.

It was suggested and agreed that the Committee's decision this date include that the approval is for a 1-storey covered porch.

**Moved by S. Hannah
Seconded by J. Meader**

That the application of GEORGE PATRICK CHAMBERS and STEPHANIE DIANA CATCHER requesting permission to construct a 1-storey covered deck in the rear yard of a single detached dwelling having a rear yard setback of 4m rather than the required 7.5m, on Part Lot 382, Plan 378, 81 Waterloo Street, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

CONSENT APPLICATIONS

- | | | |
|----|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Submission No.: | B 2021-015 |
| | Applicants: | Novacore (83 Elmsdale Drive) Inc. |
| | Property Location: | 83 Elmsdale Drive |
| | Legal Description: | Part Lots 3 & 4, Municipal Compiled Plan 1021, Part Lot 1, Municipal Compiled Plan 1022 and Part Lot 3 Municipal Compiled Plan 1026 |
-

Appearances:

In Support: T. Collins

Contra: None

Written Submissions: None

1. Submission No.: B 2021-015 (Cont'd)

The Committee was advised the applicant is requesting permission to grant three easements for sanitary services available along the Ottawa Street property frontage to facilitate development; Easement 1 on the plan submitted with the application being irregular in shape having a width of 5m, an overall length of 152.3m and an area of 761.3 s.m. in favour of Parcel C; Easement 2 on the plan submitted with the application having a width of 5m, a length of 5.5m and an area of 27.5 sq.m. in favour of Parcels C and D; and, Easement 3 having a width of 5m, a length of 161.1m and an area of 805.6 sq.m. in favour of Parcel D. The property was previously subject to Consent applications which created the parcels and established additional easements.

The Committee considered Development Services Department report DSD-2021-49 dated April 8, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 9, 2021 advising they have no concerns with this application.

Moved by S. Hannah
Seconded by B. McColl

That the application of NOVACORE (83 ELMSDALE DRIVE) INC. requesting permission to grant three easements for sanitary services available along the Ottawa Street property frontage to facilitate development; Easement 1 on the plan submitted with the application being irregular in shape having a width of 5m, an overall length of 152.3m and an area of 761.3 s.m. in favour of Parcel C; Easement 2 on the plan submitted with the application having a width of 5m, a length of 5.5m and an area of 27.5 sq.m. in favour of Parcels C and D; and, Easement 3 having a width of 5m, a length of 161.1m and an area of 805.6 sq.m. in favour of Parcel D, on Part Lots 3 & 4, Municipal Compiled Plan 1021, Part Lot 1, Municipal Compiled Plan 1022 and Part Lot 3 Municipal Compiled Plan 1026, 83 Elmsdale Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the Transfer Easement document required to create the Easement being approved herein shall include the following and shall be approved by the City Solicitor:
 - a. a clear and specific description of the purpose of the Easement and of the rights and privileges being granted therein (including detailed terms and/or conditions of any required maintenance, liability and/or cost sharing provisions related thereto).
 - b. a clause/statement/wording confirming that the Easement being granted shall be maintained and registered on title in perpetuity and shall not be amended, released or otherwise dealt with without the express written consent of the City.
4. That the owner shall provide a satisfactory Solicitor's Undertaking to register the approved Transfer Easement(s) and to immediately thereafter provide copies thereof to the City Solicitor be provided to the City Solicitor.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.

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1. Submission No.: B 2021-015 (Cont'd)

3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

2. **Submission No.:** B 2021-016
Applicants: Revalue Properties Inc.
Property Location: 83 Second Avenue
Legal Description: Part of Block "B", Registered Plan 254

Appearances:

In Support: B. Jokanovic

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m. The retained land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m. The existing dwelling will be demolished.

The Committee considered Development Services Department report DSD-21-052 dated April 9, 2021 recommending approval of this application, subject to the conditions outlined in the report.

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 9, 2021 advising they have no concerns with this application, subject to the following conditions:

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per new lot created.
- 2) That prior to final approval, the owner/applicant enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a) The dwelling will be fitted with 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 prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
 - c) The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:

2. Submission No.: B 2021-016 (Cont'd)

- i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic Highway 7/8 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)."*

Boban Jokanovic was in attendance in support of the subject application and staff recommendation.

The Chair requested the Regional Conditions be included in the Committees decision this date. It was further suggested and agreed that Condition 10 of the staff report be amended to reference the demolition of a single detached dwelling rather than "a portion of the detached dwelling".

Moved by B. McColl
Seconded by J. Meader

That the application of REVALUE PROPERTIES INC requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m. The retained land will have a width of 8.23m, a depth of 40.234m and an area of 331 sq.m., on Part of Block "B", Registered Plan 254, 83 Second Avenue, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner shall pay to the City of Kitchener a cash-in-lieu contribution for park dedication on the severed parcel equal in the amount of \$3785.80.
4. That the owner shall make financial arrangements to the satisfaction of the City's Engineering Division for the installation of any new service connections to the severed and/or retained lands.
5. That the owner shall ensure 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 Engineering Division.
6. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
7. That the owner shall submit a complete Development and Reconstruction As-recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.

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2. Submission No.: B 2021-016 (Cont'd)

8. That the owner shall provide Engineering staff with confirmation that the basement elevation 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 to the satisfaction of the Director of Engineering Services.
9. That the owner shall enter into an agreement with the City of Kitchener to be prepared by the City Solicitor and registered on title of the severed and retained lands which shall include the following:
 - a) That the owner shall prepare a Tree Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning and the Director of Operations, and where necessary, implemented prior to any grading, tree removal or the issuance of any building permits. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation (including street trees) to be preserved.
 - 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 Planning and the Director of Parks and Cemeteries.
 - c) That the Owner ensures any boulevard trees identified by the City for retention are protected during construction to the satisfaction of the City's Director of Parks and Cemeteries and the City's Director of Planning. That prior to the issuance of any building permit, the Owner makes satisfactory arrangements financial or otherwise for any relocation/removal of any existing boulevard trees adjacent to the subject property to the satisfaction of the City's Parks and Cemeteries.
10. That the owner shall obtain a demolition permit for the existing single detached dwelling proposed to be demolished, to the satisfaction of the Chief Building Official.
11. That the owner shall enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a) The dwelling will be fitted with 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 prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
 - c) The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
 - i. "The purchasers / tenants are advised that sound levels due to increasing road traffic Highway 7/8 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)."
12. That the owner shall submit the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

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2. Submission No.: B 2021-016 (Cont'd)

It is the opinion of this Committee that:

- 1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
- 2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
- 3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

3. Submission No.: B 2021-017
Applicant: 2611601 Ontario Inc.
Property Location: 82 Pattandon Avenue
Legal Description: Part Lots 14 & 15, Registered Plan 384

Appearances:

- In Support: J. Hale
- Contra: J. Lazarte J. Steckley
C. & G. Rito Z. Harvey
D. Hunsperger

Written Submissions: B. Pejanovic

The Committee was advised the applicant is requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m. The retained land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m. The existing dwelling will be demolished.

The Committee considered Development Services Department report DSD-2021-47 dated April 9, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated April 9, 2021, advising they have no objection to this application subject to the following conditions:

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per new lot created.
- 2) That prior to final approval, the owner/applicant enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:

3. Submission No.: B 2021-017 (Cont'd)

- a. The dwelling will be fitted with 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. The exterior walls (eastern and northern walls) facing the railway will be constructed with brick veneer (EW5) or acoustical equivalent.
- c. That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
- d. The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
 - i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic on Ottawa Street North, local municipal streets, and rail noise from CN Railway 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)".*
 - ii. *"This unit has supplied with central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Region of Waterloo and the Ministry of the Environment, Conservation and Parks."*
 - iii. *"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."*

Janelle Hale was in attendance in support of the application and the staff recommendation.

Julieta Lazarte was in attendance in opposition to the application, expressing concerns that the property was going to be developed with a 4-unit multi-residential dwelling. In response to the comments, J. Hale advised the application is proposing to create one new lot for the construction of semi-detached dwellings.

Jeff Steckley addressed the Committee in opposition to the application. J. Steckley advised although the R5 Zone permits semi-detaching dwellings, this would be the first one constructed on the street and it would set a precedence for future development of this nature. J. Steckley noted they are located within a Residential Intensification in Established Neighbourhoods Study (RIENS) area and questioned how the study would protect them from development, indicating the proposed severance will significantly alter the street.

In response to questions, J. von Westerholt advised the R5 Zoning does permit semi-detached dwellings as a permitted use. The proposed lots fully conform with the Zoning by-laws and the proposed setbacks of the new dwelling would be inline with the other homes on the street. J. Steckley questioned whether there was a threshold ratio for applications that would be considered in the future. The Chair noted if the Zoning permits the use, market demand would likely dictate future development on the street.

Christine & George Rito were in attendance in opposition of the application. C. Rito noted she concurred with the comments from J. Steckley. C. Rito questioned whether the proposed garages would be required to consistent with the existing streetscape.

3. Submission No.: B 2021-017 (Cont'd)

J. von Westerholt stated the property is located within a RIENS neighbourhood, stating the proposed garage would be required to be located behind the principle facade. In response to questions, J. Hale indicated they have not yet started the design process for the proposed semi-detached dwelling, commenting they would be opening to listening to some suggestions of the neighbourhood.

Zoe Harvey addressed the Committee in opposition to the application, expressing concerns with: safety of the neighbourhood; the possible eviction of the tenants moving in May 2021; and, the noise from the construction. Z. Harvey expressed further concerns with the timing of the meeting, noting it was not accessible to all residents.

Deb Hunsperger was in attendance in opposition to the application. D. Hunsperger expressed concerns with: on-street parking, safety specifically related to emergency response times and traffic; as well as, the possible loss of the neighbourhood family appeal.

In response to questions, D. Seller this is the first he had received a complaint related to safety for the subject the street. D. Seller indicated on-street parking is permitted on both sides of the street, noting specifically with snow events it was typical that a street would narrow in size due to the snow. D. Seller indicated he could not speak to the accessibility of the street related to emergency response. D. Seller further advised the proposed dwelling would be required to provide off-street parking spaces for the units, likely those spaces would be located within a garage.

J. Meader stated all the concerns received this date from the area residents do not directly relate to the subject application, noting concerns for tenants or noise are out the Committee's authority. J. Meader indicated the property owner could demolish and reconstruct the dwelling and would not require any approvals from the Committee. Comments related to traffic and parking are existing conditions that would not be exacerbated by one additional dwelling unit. J. Meader further advised in her opinion, the application supports the provincial policy statements for intensification.

S. Hannah advised he was sympathetic to the neighbourhood, he acknowledged the concerns related to precedence, indicating the Zoning on the street permits this type of development. S. Hannah further advised he was in agreement with the comments made by J. Meader.

**Moved by J. Meader
Seconded by S. Hannah**

That the application of 2611601 ONTARIO INC requesting permission to sever a parcel of land so each half of a semi-detached residential dwelling can be dealt with separately. The severed land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m. The retained land will have a width of 7.62m, a depth of 37.97m and an area of 289 sq.m., on Part Lots 14 & 15, Registered Plan 384, 82 Pattandon Avenue, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner shall pay to the City of Kitchener a cash-in-lieu contribution for park dedication on the severed parcel equal in the amount of \$3,505.20.
4. That the owner shall make financial arrangements to the satisfaction of the City's Engineering Division for the installation of any new service connections to the severed and/or retained lands.

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3. Submission No.: B 2021-017 (Cont'd)

5. That the owner shall ensure 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 Engineering Division.
6. That the Owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
7. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
8. That the owner shall provide Engineering staff with confirmation that the basement elevation 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 to the satisfaction of the Director of Engineering Services.
9. That the owner shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the two lots.
10. That the owner shall enter into an agreement with the City of Kitchener to be prepared by the City Solicitor and registered on title of the severed and retained lands which shall include the following:
 - a. That prior to any grading, servicing or the application or issuance of a building permit, the owner shall submit a plan, prepared by a qualified consultant, to the satisfaction and approval of the City's Director of Planning showing:
 - i. the proposed location of all buildings (including accessory buildings and structures), decks and driveways;
 - ii. the location of any existing buildings or structures that are to be removed or relocated;
 - iii. the proposed grades and drainage;
 - iv. the location of all trees to be preserved, removed or potentially impacted on or adjacent to the subject lands, including notations of their size, species and condition;
 - v. justification for any trees to be removed; and
 - vi. outline tree protection measures for trees to be preserved; and
 - b. Any alteration or improvement to the lands including grading, servicing, tree removal and the application or issuance of any building permits shall be in compliance with the approved plan. Any changes or revisions to the plan require the approval of the City's Director of Planning.
11. That the owner shall submit the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
12. That the owner shall enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a. The dwelling will be fitted with 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. The exterior walls (eastern and northern walls) facing the railway will be constructed with brick veneer (EW5) or acoustical equivalent.

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3. Submission No.: B 2021-017 (Cont'd)

- c. That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.
- d. The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
 - i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic on Ottawa Street North, local municipal streets, and rail noise from CN Railway 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)".*
 - ii. *"This unit has supplied with central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Region of Waterloo and the Ministry of the Environment, Conservation and Parks."*
 - iii. *"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."*

It is the opinion of this Committee that:

- 1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
- 2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
- 3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

- 2. Submission No.: B 2021-018 to B 2021-020
Applicants: ELEV8 Properties Inc.
Property Location: 942 Doon Village Road
Legal Description: Part Lot 2, Blehn's Tract

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

Appearances:

In Support: S. O' Neill
S. Patterson

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to create 3 lots and retain 1 for residential development. All four of the lots are proposed to have access on Doon Mills Drive. The proposed lots will have the following dimensions:

B 2020-018 - (Severed Lot 1)

Access Doon Mills Drive
Width - 13.716m
Depth - 70.7m
Area - 918.4 sq.m

B 2020-019 - (Severed Lot 2)

Access Doon Mills Drive
Width - 13.716m
Depth - 70.7m
Area - 909.4 sq.m

B 2020-020 - (Severed Lot 3)

Access Doon Mills Drive
Width - 13.716m
Depth - 70.76m
Area - 909.6 sq.m

Retained Lot

Access Doon Mills Drive
Width - 19.695m
Depth - 70.76m
Area - 1306.6 sq.m

The Committee considered Development Services Department report DSD-2021-54 dated April 11, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated April 9, 2021, advising they have no objection to this application subject to the following conditions:

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per new lot created.
- 2) That prior to final approval, the owner/applicant complete an Environmental Noise Study and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise assessment attenuation measures, all to the satisfaction of the Region of Waterloo.

Scott Patterson and Sean O'Neill were in attendance in support of the applications. S. Patterson requested the Committee revising Condition 3 of the staff recommendation, noting the wording as proposed when applied to all three decisions could require the application to pay \$18K per severance, whereas the intention is that the cash-in-lieu contribution is noted is an accumulated total. S. Patterson further advised the Region of Waterloo has requested a Noise Study, noting he attempted to reach out to the Region in advance of the meeting but did not receive a response as of yet. S. Patterson indicated a previous severance application was approved by the Committee for 518 Bridgeport Road, which fronts onto a Regional road and is in close proximity to the expressway and a Noise Study was not requested in that instance. S. Patterson stated impacts of noise in that instance are likely greater than in this location and requested consideration be given to amending the condition to read "That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo" which would leave greater related to environmental noise that the Region could request a study, or could only require a Noise warning agreement", noting it would give some flexibility to the Region to request a Noise Study or an noise warning agreement.

It was suggested and agreed that the proposed amendments related to parkland dedication and the Environmental Noise condition be revised as requested. It was further suggested by S. Hannah and agreed that an additional condition be added to the Committee's decision this date require the owner to receive demolition approval for the existing dwelling prior to the severance of the lots.

2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)**Submission No.: B 2021-018****Moved by S. Hannah****Seconded by B. McColl**

That the application of ELEV8 PROPERTIES INC. requesting permission to sever a parcel of land identified as Severed Parcel 1 on the plan submitted with the application having a width on Doon Mills Drive of 13.716m, a depth of 70.7m and an area of 918.4 sq.m, on Part Lot 2, Biehn's Tract, 942 Doon Village Road, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner pays to the City of Kitchener a cash-in-lieu contribution for park dedication for a total accumulated amount of \$18,928.08 for the severed parcels identified in Consent Applications B 2021-018, B 2021-019 and B 2021-020.
4. That the Owner shall prepare Street Tree Management Plan (STMP), stamped by a certified Landscape Architect, in accordance with Section M of the Development Manual, to satisfaction of the City's Director of review by Parks and Cemeteries.
5. That the Owner makes financial arrangements to the satisfaction of the City's Engineering Division for the installation of any new service connections to the severed and/or retained lands.
6. That the owner shall ensure 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 Engineering Division in Consultation with the City's Director of Transportation Services.
7. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
8. That the owner shall prepare a Grading Plan for the severed and retained lands in accordance with the City's Development Manual, to be approved by the City's Director of Engineering in consultation with the City's Director of Planning.
9. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
10. That the owner shall provide Engineering staff with confirmation that the basement elevation 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 to the satisfaction of the Director of Engineering Services.
11. The owner shall prepare a Tree Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area, and vegetation to be preserved.

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

12. The owner shall enter into a modified subdivision agreement with the City of Kitchener to be prepared by the City Solicitor to the satisfaction of the City's Director of Planning, and registered on title of the Retained and Severed lands. Said agreement shall include the following conditions:
- I. *Prior to Grading, Tree Removal, or Issuance of any Building Permits, whichever shall occur first:*
 - a) *The Owner shall implement all approved measures for the protection of trees as approved in the Tree Preservation/Enhancement Plan (where applicable) and to provide written certification from the Owner's Environmental Consultant to the City's Director of Planning that all protection measures have been implemented and inspected, in accordance with the City's Tree Management Policy. No changes to the said plans shall be granted, except with prior approval from the City's Director of Planning.*
 - II. *Prior to the Issuance of any Building Permits*
 - b) *The Owner shall obtain approval of a Lot Grading Control Plan showing the required elevation of each corner of each lot for the severed and retained lands and the required elevation(s) of the building site as well as the required direction flow of surface drainage which must be approved by the CITY'S Director of Engineering Services, and must conform to the approved Tree Management Plan, overall Grading Plan, and Street Tree Management Plan.*

In addition to the conditions noted above, the modified subdivision agreement shall contain language to address maintenance and access for any shared driveways, if proposed.

13. That the owner shall submit the applicant consent review fee of \$350.00 per new lot created to the Region of Waterloo.
14. That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo.
15. That the owner shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the lots.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being April 20, 2023.

Carried

2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)Submission No.: B 2021-019

Moved by S. Hannah
Seconded by B. McColl

That the application of ELEV8 PROPERTIES INC. requesting permission to sever a parcel of land identified as Severed Parcel 2 on the plan submitted with the application having a width on Doon Mills Drive of 13.716m, a depth of 70.7m and an area of 909.4 sq.m, on Part Lot 2, Biehn's Tract, 942 Doon Village Road, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner pays to the City of Kitchener a cash-in-lieu contribution for park dedication for a total accumulated amount of \$18,928.08 for the severed parcels identified in Consent Applications B 2021-018, B 2021-019 and B 2021-020.
4. That the Owner shall prepare Street Tree Management Plan (STMP), stamped by a certified Landscape Architect, in accordance with Section M of the Development Manual, to satisfaction of the City's Director of review by Parks and Cemeteries.
5. That the Owner makes financial arrangements to the satisfaction of the City's Engineering Division for the installation of any new service connections to the severed and/or retained lands.
6. That the owner shall ensure 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 Engineering Division in Consultation with the City's Director of Transportation Services.
7. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
8. That the owner shall prepare a Grading Plan for the severed and retained lands in accordance with the City's Development Manual, to be approved by the City's Director of Engineering in consultation with the City's Director of Planning.
9. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
10. That the owner shall provide Engineering staff with confirmation that the basement elevation 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 to the satisfaction of the Director of Engineering Services.
11. The owner shall prepare a Tree Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area, and vegetation to be preserved.

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

12. The owner shall enter into a modified subdivision agreement with the City of Kitchener to be prepared by the City Solicitor to the satisfaction of the City's Director of Planning, and registered on title of the Retained and Severed lands. Said agreement shall include the following conditions:

I. *Prior to Grading, Tree Removal, or Issuance of any Building Permits, whichever shall occur first:*

a) *The Owner shall implement all approved measures for the protection of trees as approved in the Tree Preservation/Enhancement Plan (where applicable) and to provide written certification from the Owner's Environmental Consultant to the City's Director of Planning that all protection measures have been implemented and inspected, in accordance with the City's Tree Management Policy. No changes to the said plans shall be granted, except with prior approval from the City's Director of Planning.*

II. *Prior to the Issuance of any Building Permits*

c) *The Owner shall obtain approval of a Lot Grading Control Plan showing the required elevation of each corner of each lot for the severed and retained lands and the required elevation(s) of the building site as well as the required direction flow of surface drainage which must be approved by the CITY'S Director of Engineering Services, and must conform to the approve Tree Management Plan, overall Grading Plan, and Street Tree Management Plan.*

In addition to the conditions noted above, the modified subdivision agreement shall contain language to address maintenance and access for any shared driveways, if proposed.

13. That the owner shall submit the applicant consent review fee of \$350.00 per new lot created to the Region of Waterloo.
14. That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo.
15. That the owner shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the lots.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

Submission No.: B 2021-020

Moved by S. Hannah
Seconded by B. McColl

2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

That the application of ELEV8 PROPERTIES INC. requesting permission to sever a parcel of land identified as Severed Parcel 3 on the plan submitted with the application having a width on Doon Mills Drive of 13.716m, a depth of 70.7m and an area of 909.6 sq.m, on Part Lot 2, Biehn's Tract, 942 Doon Village Road, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner pays to the City of Kitchener a cash-in-lieu contribution for park dedication for a total accumulated amount of \$18,928.08 for the severed parcels identified in Consent Applications B 2021-018, B 2021-019 and B 2021-020.
4. That the Owner shall prepare Street Tree Management Plan (STMP), stamped by a certified Landscape Architect, in accordance with Section M of the Development Manual, to satisfaction of the City's Director of review by Parks and Cemeteries.
5. That the Owner makes financial arrangements to the satisfaction of the City's Engineering Division for the installation of any new service connections to the severed and/or retained lands.
6. That the owner shall ensure 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 Engineering Division in Consultation with the City's Director of Transportation Services.
7. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
8. That the owner shall prepare a Grading Plan for the severed and retained lands in accordance with the City's Development Manual, to be approved by the City's Director of Engineering in consultation with the City's Director of Planning.
9. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
10. That the owner shall provide Engineering staff with confirmation that the basement elevation 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 to the satisfaction of the Director of Engineering Services.
11. The owner shall prepare a Tree Preservation/Enhancement Plan for the severed and retained lands in accordance with the City's Tree Management Policy, to be approved by the City's Director of Planning. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area, and vegetation to be preserved.
12. The owner shall enter into a modified subdivision agreement with the City of Kitchener to be prepared by the City Solicitor to the satisfaction of the City's Director of Planning, and registered on title of the Retained and Severed lands. Said agreement shall include the following conditions:

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2. Submission No.: B 2021-018 to B 2021-020 (Cont'd)

I. *Prior to Grading, Tree Removal, or Issuance of any Building Permits, whichever shall occur first:*

a) *The Owner shall implement all approved measures for the protection of trees as approved in the Tree Preservation/Enhancement Plan (where applicable) and to provide written certification from the Owner's Environmental Consultant to the City's Director of Planning that all protection measures have been implemented and inspected, in accordance with the City's Tree Management Policy. No changes to the said plans shall be granted, except with prior approval from the City's Director of Planning.*

II. *Prior to the Issuance of any Building Permits*

d) *The Owner shall obtain approval of a Lot Grading Control Plan showing the required elevation of each corner of each lot for the severed and retained lands and the required elevation(s) of the building site as well as the required direction flow of surface drainage which must be approved by the CITY'S Director of Engineering Services, and must conform to the approved Tree Management Plan, overall Grading Plan, and Street Tree Management Plan.*

In addition to the conditions noted above, the modified subdivision agreement shall contain language to address maintenance and access for any shared driveways, if proposed.

- 13. That the owner shall submit the applicant consent review fee of \$350.00 per new lot created to the Region of Waterloo.
- 14. That the owner shall address Environmental Noise and, if necessary, shall enter into an agreement with the City of Kitchener to provide for implementation of the accepted noise measures, all to the satisfaction of the Region of Waterloo.
- 15. That the owner shall obtain a demolition permit to the satisfaction of the Chief Building Official and removes the existing dwelling prior to the creation of the lots.

It is the opinion of this Committee that:

- 1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
- 2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
- 3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

- 2. **Submission No.:** B 2021-021 to B 2021-023
Applicants: Adam & Tracy Szuba and Roberto Drelini
Property Location: 654 Rockway Drive
Legal Description: Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347

Appearances:

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2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

In Support: D. Galbraith

Contra:	T. McCrabb	H. & B. Woodley
	S. & P. Hartigan	S. Jones
	P. & C. Berry	S. & J. Francis
	B. Hotton	M. & C. McFarlane

Written Submissions:	C. & J. Axler	B. Voigt
	P. Rath	S. Hartigan
	S. Francis	P. Schreiter
	P. & C. Berry	M. Cameron
	B. Hooton	M. McFarlane
	H. Woodley	R. Gurney
	S. & M. Jones	

The Committee was advised the applicant is requesting permission to create 3 lots and retain 1 for the construction of two semi-detached dwellings. The proposed lots will have the following dimensions:

Retained Parcel - (Parcel A)

Width - 8.38m
Depth - 32.61m
Area - 263 sq.m

B 2021-021 - (Parcel B)

Width - 8.38m
Depth - 32.61m
Area - 263 sq.m

B 2021-022 - (Parcel C)

Width - 8.38m
Depth - 32.62m
Area - 263 sq.m

B 2021-023 - (Parcel D)

Width - 8.38m
Depth - 32.61m
Area - 263 sq.m

The Committee considered Development Services Department report DSD-2021-50 dated April 8, 2021, recommending approval of this application, subject to the conditions outlined in the Report.

The Committee considered the report of the Region of Waterloo, Planning, Development and Legislative Services dated April 9, 2021, advising they have no objection to this application subject to the following conditions:

- 1) That prior to final approval, the owner/applicant enter into an agreement with the City of Kitchener to include the following noise mitigation/warning clauses in all Offers of Purchase and Sale, lease/rental agreements and condominium declarations for all dwellings on the severed and retained lands:
 - a. The dwelling unit(s) must be installed with air-ducted heating and ventilation system, suitably sized and designed with provision of adding central air conditioning.
 - b. The dwelling unit(s) on the proposed severed and retained lands will be registered with the following noise warnings clauses on title:
 - i. *"The purchasers / tenants are advised that sound levels due to increasing road traffic on King Street East (RR #08) / Charles Street 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)".*
 - ii. *"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)".*
 - c. That prior to the issuance of any building permits, the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the buildings plans and the dwelling units have been constructed accordingly.

Dave Galbraith, IBI Group, was in attendance in support of the subject application and the staff recommendation.

2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

Tim McCrabb, Heather & Bruce Woodley, Stewart Jones, Paul & Christine Berry, Sarah & James Francis, Bob Hooten and Meredith & Chris McFarlane were in attendance in opposition to the application.

Sharon Hartigan addressed the Committee on opposition to the subject application. S. Hartigan advised she resides at a property on Rockway Drive, the street borders the Rockway Golf Course and Rockway Gardens. S. Hartigan noted the area residents were disappointed to learn about the applications and that the proposed severances are in compliance with the current Zoning regulations on the street. S. Hartigan commented the applications do not take into consideration the adjacent properties or the neighbourhood, indicating in her opinion it is not good intensification or compatible with Rockway Drive. S. Hartigan further advised if approved she will be required to landscape her backyard to protect her amenity space. S. Hartigan requested the Committee consider deferring the applications to allow a further review of the information outlined in the planning report.

Phil Hartigan stated he was in opposition to the application. P. Hartigan stated the staff report includes comments about being satisfied with the shape of the lots, the desirability and compatibility with the surrounding community, indicating the neighbourhood is comprised of single, semi and multi use dwellings. P. Hartigan advised the residents disagree with these statements, indicating the street is comprised of single detached homes constructed between 1935 and 1953, noting there are no semi-detached dwellings or duplexes. P. Hartigan advised the properties on the street all have 60 ft frontages and the proposed severances would sever a lot from 110 ft wide to four lots having 19 ft frontages. P. Hartigan stated in his opinion the applications contravenes the policies within the City's Official Plan and would have adverse impacts on the Rockway Gardens Cultural Heritage Landscape. P. Hartigan requested a deferral of the application to thoroughly examine the heritage significance of the area, noting the applications are not compatible with Rockway Drive.

The Chair expressed comments that he was surprised not to see additional comments from Heritage Planning staff due to the proximity to Rockway Gardens and the significance of the area. The Chair expressed some concern on how the proposed lots would blend in with the existing neighbourhood.

J. Meader indicated she shared similar concerns to the Chair, stating she was not in support of the proposed applications. J. Meader indicated when reviewing a consent application the Committee must consider a policy within the Official Plan that states "application for consents will only be granted where the lots reflect the general scale and character of the established development pattern of the surrounding land taking into consideration lot frontages, areas and configurations." Following review of the staff report, J. Meader stated she did not see any analysis from the Planning staff or from the Applicants planner to support that policy. Reviewing the location map of the area and reviewing the severance sketch it is completely different from what is surrounding the subject property. J. Meader further advised the street is unique, with a semi-rural cross section and large lots and although she acknowledge development was occurring closer to the intersection, the proposal was not appropriate for the subject lands.

In response to questions, D. Galbraith advised the applicant to date is only proposing the severance of the lots, they have yet to prepare elevation drawings for the proposed semis. D. Galbraith indicated the design would be informed by the character of the neighbourhood as well as the Residential Intensification in Established Neighbourhoods Study (RIENS), indicating the dwellings are proposed to have front yard setbacks of 8.5m which is compatible with the existing homes on the street. D. Galbraith advised the architectural character of the dwellings has not yet been determined.

In response to questions related to the Cultural Heritage Landscape (CHL) study, J. von Westerholt advised the CHL are for Rockway Gardens applies to a portion of the street and the golf course. J. von Westerholt stated the CHL is not a heritage designation, although the area was identified, further work would be required to list or designate the area as significant.

Questions were raised regarding the R4 Zoning and when Zoning was updated to permit semi-detached dwellings. J. von Westerholt advised the R4 Zoning has always permitted semi-detached dwellings. C. Dumart advised the current Zoning for the street has been in place since the 1980's.

2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

C. Dumart advised the property is comprised as a double wide lot and would have a similar footprint if the lot was severed in half and single detached dwellings were constructed. C. Dumart further advised the applicant is proposing to further subdivide the semi-detached dwellings so they can each half can be held in separate ownership.

The Chair noted he did not really support the comments of staff related to similar building footprints between the semi-detached dwellings and single detached dwellings, noting he could possibly support two single detached dwellings. The Chair noted semi-detached dwellings are not similar to single detached dwellings.

C. Dumart stated the application does not include a request to add semi-detached dwelling as a permitted use.

S. Hannah stated when reviewing the application, it is clear that the property is a double wide lot. The application through the proposal is tying to make use of the existing Zoning. S. Hannah stated in his opinion the street should be a heritage conservation district and the zoning should only permit single detached dwellings. S. Hannah further advised without knowing what is proposed to be constructed on the property he is currently opposed to the applications. S. Hannah commented the character of the neighbourhood is important in this instance, stating they could possibly construct semi-detached dwellings that are compatible with the adjacent properties, stating a contemporary design in this instance would have an adverse impact on the streetscape.

B. McColl brought forward a motion to refuse the subject applications based on the opinion that the development is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Submission No.: B 2021-021

Moved by B. McColl
Seconded by J. Meader

That the application of ADAM DOUGLAS SZUBA, TRACY MARY SZUBA and ROBERTO DRELINI requesting permission to sever a parcel of land identified as Parcel 'B' on the plan submitted with the application having a width of 8.38m, a depth of 32.61m and an area of 263 sq.m., on Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347, 654 Rockway Drive, Kitchener, Ontario, **BE REFUSED**.

It is the opinion of this Committee that the lot to be created through this application is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

Submission No.: B 2021-022

Moved by B. McColl
Seconded by J. Meader

That the application of ADAM DOUGLAS SZUBA, TRACY MARY SZUBA and ROBERTO DRELINI requesting permission to sever a parcel of land identified as Parcel 'C' on the plan submitted with the application having a width of 8.38m, a depth of 32.62m and an area of 263 sq.m., on Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347, 654 Rockway Drive, Kitchener, Ontario, **BE REFUSED**.

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2. Submission No.: B 2021-021 to B 2021-023 (Cont'd)

It is the opinion of this Committee that the lot to be created through this application is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

Submission No.: B 2021-023

Moved by B. McColl
Seconded by J. Meader

That the application of ADAM DOUGLAS SZUBA, TRACY MARY SZUBA and ROBERTO DRELINI requesting permission to sever a parcel of land identified as Parcel 'D' on the plan submitted with the application having a width of 8.38m, a depth of 32.61m and an area of 263 sq.m., on Lots 8 & 9 and Part Lots 7 & 10 Registered Plan 347, 654 Rockway Drive, Kitchener, Ontario, **BE REFUSED.**

It is the opinion of this Committee that the lot to be created through this application is not compatible and does not conform in size, scale or massing with the pre-existing neighbourhood.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

COMBINED APPLICATION

1. Submission No.: B 2021-024, A 2021-034
Applicant: 59 Carisbrook Dr. Ltd.
Property Location: 59 Carisbrook Dr.
Legal Description: Part Lot 59, German Company Tract

Appearances:

In Support: M. Warzecha
A. Bast

Contra: None

Written Submissions: None

The Committee was advised the applicant is requesting permission to sever a parcel of land being irregular in shape at the rear of the property having a width of 38.71m, a westerly depth of 33.22m and an area of 503 sq.m. to be conveyed as a lot addition to the property municipally addressed as 34 Hillcrest Lane. Permission is also being requested for a minor variance to legalize the subject property for have frontage on a private lane whereas the By-law requires all properties to have frontage on a public street.

The Committee considered Development Services Department report DSD-21-051 dated April 9, 2021, recommending approval of these applications, subject to the conditions outlined in the Report.

COMMITTEE OF ADJUSTMENT MINUTES

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1. Submission No.: B 2021-024, A 2021-034 (Cont'd)

The Committee considered the report of the Region of Waterloo, Transportation Planner, dated April 7, 2021 advising they have no concerns with applications B 2021-024 and A 2021-034.

The Committee considered the report of the Grand River Conservation Authority dated April 8, 2021, advising they have no objection to this application subject to the following condition:

- 1) That prior to final approval, the owner/applicant submit the plan review fee of \$430.00.

Submission No.: B 2021-024

Moved by S. Hannah
Seconded by J. Meader

That the application of 59 CARISBROOK DR LTD requesting permission to sever a parcel of land being irregular in shape at the rear of the property having a width of 38.71m, a westerly depth of 33.22m and an area of 503 sq.m. to be conveyed as a lot addition to the property municipally addressed as 34 Hillcrest Lane, on Part Lot 59, German Company Tract, on 59 Carisbrook Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide 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 sized 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.
3. That the owner shall provide a building code assessment as it relates to the new proposed property line to the satisfaction of the Chief Building Official. The building code assessment relates to the new proposed property line and any of the buildings adjacent to this new property line and 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.
4. That the owner shall ensure the lands to be severed are to be added to the abutting lands and title is to be taken into identical ownership as the abutting lands. The deed for endorsement shall include that any subsequent conveyance of the parcel to be severed shall comply with Sections 50(3) and/or (5) of the Planning Act, R.S.O. 1990, c. P.13, as amended.
5. That the owner's Solicitor shall provide a Solicitor's Undertaking to register an Application Consolidation Parcels immediately following the registration of the Severance Deed and prior to any new applicable mortgages, and to provide a copy of the registered Application Consolidation Parcels to the City Solicitor within a reasonable time following registration.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

COMMITTEE OF ADJUSTMENT MINUTES

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CITY OF KITCHENER

1. Submission No.: B 2021-024. A 2021-034 (Cont'd)

Submission No.: A 2021-034

**Moved by S. Hannah
Seconded by J. Meader**

That the application of 59 CARISBROOK DR LTD requesting permission to legalize the subject property to have frontage on a private lane for the purpose of a lot addition requested through Consent Application B 2021-024 whereas the By-law requires all properties to have frontage on a public street, on Part Lot 59, German Company Tract, 59 Carisbrook Drive, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Carried

ADJOURNMENT

On motion, the meeting adjourned at 12:19 p.m.

Dated at the City of Kitchener this 20th day of April, 2021.

Dianna Saunderson
Secretary-Treasurer
Committee of Adjustment

Eric Schneider

From:
Sent: Friday, November 12, 2021 11:38 PM
To: Eric Schneider; Margaret Johnston;

Subject: [EXTERNAL] Re: 400_Westwood_Drive-Application_for_Development-Green_Belt_Neighbourhood_Association_Group_Submission

Re: Direction of Staff to assess the canopy loss in properties under 1 acre in size

Dear Councilor Johnston,

Per the recent circulation through Engage Kitchener
(per <https://f.kitchener.ca/WebLinkExt/DocView.aspx?dbid=0&id=1948958&page=1&cr=1>),
I hope that Staff will be so directed in 2022 to pursue the effects of canopy loss on properties under 1 acre in size.

Sincerely,

Judy-Anne Chapman, Ph.D.
Green Belt Neighbourhood Contact

-----Original Message-----

From: jachapma@aol.com

To: <Eric.Schneider@kitchener.ca>; Margaret.Johnston@kitchener.ca
<Margaret.Johnston@kitchener.ca>

jimchapman1949@aol.com <jimchapman1949@aol.com>
Sent: Fri, Oct 15, 2021 10:18 am
Subject: 400_Westwood_Drive-Application_for_Development-Green_Belt_Neighbourhood_Association_Group_Submission

Dear Eric Schneider,

Thank you for the opportunity to comment on the proposal for development of 400 Westwood Drive.

Colour card stock copies of the Planning Department post cards were delivered to the residences not covered by the Kitchener mail distribution: that is, to the remaining homes on Maple Hill, Glasgow, Knell, Westwood, Huntington, and Gallarno.

Please find attached a group submission for the Green Belt Neighbourhood.

Would you please confirm receipt of this message.

We look forward to upcoming interactions with you.

Our Ward 8 Councillor, Margaret Johnston, is cc'd.

Sincerely,

Judy-Anne Chapman, Ph.D.

Eric Schneider

From: Roger Suffling
Sent: Wednesday, January 12, 2022 10:56 AM
To: Eric Schneider
Subject: [EXTERNAL] RE: Public meet re: development at 396(?) Westwood Dr

Eric, Thank you very much for the follow up. Yes, the notice about the Zoom consultation has just been re-posted and is bigger now. I do hope that the meeting goes well. My interest in this is, as always, to ensure that our neighbourhood is consulted and represented in decision making.

Unfortunately, I have TWO meetings by zoom at the time of the public consultation, so I shall not be able to attend.

Rog.

-----Original Message-----

From: Eric Schneider <Eric.Schneider@kitchener.ca>
Sent: January 10, 2022 5:16 PM
To: Roger Suffling
Cc: Planning (SM) <planning@kitchener.ca>
Subject: RE: Public meet re: development at 396(?) Westwood Dr

Hello Roger,

You called me and we spoke on the phone last week on Thursday Jan 6 about the notice for this meeting. I followed up with the applicant, and they went out to site the following day (Friday Jan 7) and confirmed that the information posted on the notice sign on for the neighbourhood meeting was still there (photo attached). On Friday, I left you a voicemail and let you know.

The site is 400 Westwood, not 396 Westwood so perhaps that is the cause for confusion.

In addition, we also sent out notices to homes within 240 metres of the subject property with the meeting details and inviting them to participate. I have included that notice attached for your information.

Eric Schneider, MCIP, RPP
Senior Planner | Planning Division | City of Kitchener
(519) 741-2200 ext 7843 | TTY 1-866-969-9994 | eric.schneider@kitchener.ca

-----Original Message-----

From: noreply@esolutionsgroup.ca <noreply@esolutionsgroup.ca> On Behalf Of Roger Suffling
Sent: Saturday, January 8, 2022 6:59 PM
To: Internet - Info <Info@kitchener.ca>
Subject: Public meet re: development at 396(?) Westwood Dr

I understand that there is a public meeting coming up on this matter. Nothing is posted on the notice at the site, and I cannot find anything on this web page. Please amend and let me know the details/post the details on web and on site?

Origin: [https://www.kitchener.ca/Modules/News/en?CategoryNames=Public consultations](https://www.kitchener.ca/Modules/News/en?CategoryNames=Public%20consultations)

This email was sent to you by Roger Suffling.

through <https://www.kitchener.ca>.

Eric Schneider

From: Kate Lawson
Sent: Friday, January 14, 2022 4:19 PM
To: Eric Schneider
Cc: Margaret Johnston; Bruce Wyse
Subject: [EXTERNAL] 400 Westwood Dr

Dear Eric:

I wanted to share my thoughts about/reaction to the 400 Westwood meeting.

I believe I heard that:

1. Every property owner is able to apply for a rezoning and each decision is individual; this is in spite of the potential combined effects of each individual decision.
2. Precedence is irrelevant to the decision; but intensification of housing across the street is cited as relevant to the neighbourhood character. This sounded a lot like precedence to me—"we intensified close by, so why not intensify here?"
3. The cutting of 28 mature trees is reasonable/balanced in spite of the fact that Kitchener has adopted a new ambitious tree-canopy goal and we are facing a climate emergency. Note, my own property lost 5 mature trees this year alone to what was, in my experience, an unprecedented windstorm. Climate change will affect the canopy and stormwater management in ways we are only beginning to understand. These factors need to be considered whenever a large number of trees are being cut and an ecosystem affected.
4. The concern of residents is cast as being about "trees"; in fact, it is about a forest ecosystem.
5. Kitchener seeks to intensify housing within city boundaries in order to protect the countryside; this sounds to me as if the Green Belt should thus be treated the same as Weber St or Highland Road, or an empty parking lot.

What was not mentioned explicitly is the profit motive. But for the developer, the point of building four houses where there was one is clearly to get a financial windfall.

Whichever way this decision goes, I think a larger question faces Kitchener City Council in making this and similar decisions. How will it respond to the financialization of the housing market in the midst of a climate crisis?

There is clear and growing evidence of the financialization of the housing market:

<https://www.cmhc-schl.gc.ca/en/nhs/nhs-project-profiles/2019-nhs-projects/financialization-housing>
<https://www.theglobeandmail.com/opinion/article-were-going-to-hear-a-lot-more-about-the-financialization-of-housing/>

If I were a developer, I would buy up every property possible where I thought I could tear down a single family home and build "infill" or intensification. I would choose neighbourhoods that are desirable because of their "character" and because my profit would be higher, and then proceed to build housing that would gradually erase that character. I would make a lot of money.

I realise that I am privileged to live in this neighbourhood. I do not want to be seen as excluding diverse populations, a consideration which was mentioned late in the meeting. But this developer is

not planning to build low-income housing, so let's be realistic when we speak about who doesn't get to live here and why this developer wishes to change the zoning.

Sincerely, Kate Lawson

Eric Schneider

From: Paul Barnhill
Sent: Tuesday, May 17, 2022 1:12 PM
To: Eric Schneider
Subject: [EXTERNAL] 400 Westwood Drive

Good Afternoon Eric

Unfortunately I have just been made aware of this application. We live at : not far from this location I feel allowing this build would be not be advantages to this area. When the town homes were built there were quite a few people added to the community on such a small parcel of land and it made Westwood drive terrible to negotiate and parking was made a lot worse. With adding four more houses, and four more driveways to the street there will be an even worse parking headache and travelling along the street will be even worse. I am finding a lot of people from the town houses still park on the opposite side of the street next to the townhomes across from the allowable parking area. It has made it very congested some days and difficult trying to manoeuvre down the street.

I am hoping you had a number of people oppose this build but I wanted to add my voice to the mix. Don't get me wrong, I agree with growth but just not here. It will make it too congested.

Thank you for your time.

Sincerely

Paul Barnhill

Kitchener, ON. N2M 2Z8

Eric Schneider

From: DENISE NOWAK
Sent: Wednesday, June 8, 2022 10:44 AM
To: Eric Schneider
Cc: Home
Subject: [EXTERNAL] 400 Westwood dr Kitchener

Eric, I left you a message last week but have not heard back.

Can you please advise the status of the application for development at 400 Westwood dr.

Thanks

Denise

Sent from my iPhone

Eric Schneider

From: Paul
Sent: Monday, April 22, 2024 3:08 PM
To: Eric Schneider
Subject: Concept plan for 400 Westwood Drive Kitchener

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Dear Eric

I have expressed my concerns about this concept plan earlier. I assume this is still in the planning. I have seen several pool company trucks outside the resident and I'm guessing to remove the existing pool in order to make room for the townhouses.

I have huge issue allowing this subdivision to continue. There is very little parking on Westwood currently. When the newest townhome complex was built there were terrible issues with construction and there were several times you couldn't even go down the street. Since then the parking has been a nightmare with people parking on both sides of the street even though there is only one side of the street parking permitted. People backing out of the town homes and semi detached homes create such a risk of being hit since there are so many cars parked as you are driving along Westwood you are not sure if they will see you as they are backing out. I myself have narrowly avoided being hit several times.

Adding five more townhomes with driveways I am assuming there will be even more people parking on the street and those people who currently park there trying to find a parking spot. This will cause blocked access to the street and reducing the two way traffic to a single lane. This concept plan is also very close to the corner of Westwood and Glasgow streets. This will increase the difficulty of turning out onto Glasgow from Westwood not to mention the already tight issues for city buses to maneuver that whole area.

I feel this part of Westwood Drive has reached a maximum of housing. To allow this current plan would create quite a lot of traffic issues not to mention the strain on an already over worked sewer and water infrastructure.

I would appreciate a response and any information regarding any further discussions on this plan.

Sincerely

Paul Barnhill

Kitchener

Pronoun: Human Being

Eric Schneider

From: Joe Jasinskas
Sent: Monday, April 22, 2024 5:33 PM
To: Eric Schneider
Subject: 400 Westwood - Updated Plan - Signage

Importance: High

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<https://aka.ms/LearnAboutSenderIdentification>]

Hi Eric,

Hope you are doing well. We just received the updated postcard requesting feedback for the 400 Westwood development. I'm checking in as there is currently no signage posted in front of the 400 Westwood property with the new proposal, and the May 8th deadline for feedback. We are currently just under 2 weeks away from that deadline.

Could you please advise if appropriate signage will be posted with enough time to gather feedback from the community? The last one didn't go up until a couple of days before the deadline.

Thanks in advance,
Joe

—
Joe Jasinskas

Eric Schneider

From: Xiong Ying
Sent: Monday, April 22, 2024 8:32 PM
To: Eric Schneider
Cc: Margaret Johnston
Subject: 400 westwood drive

收到此邮件的某些人通常不会收到来自

电子邮件。[了解为什么这一点很重要](#)

Hello,

I received your information about the construction of five townhomes at 400 Westwood Drive today . As the owner of _____ I strongly protest and oppose:

1. The townhouse built is incompatible with the surrounding environment,
2. Cause serious damage to animal habitat, surrounding trees, grass and environment,
3. Adding to the already congested traffic situation, the situation of random parking becomes even more serious.
4. It will cause serious noise and visual pollution to nearby residents.

In view of this, I firmly oppose this unreasonable planning.

Sincerely,

Ying Xiong

Eric Schneider

From: Sumit C
Sent: Wednesday, April 24, 2024 3:24 PM
To: Eric Schneider
Subject: Comments/feedback- 400 Westwood Drive Application Development

[You don't often get email from <https://aka.ms/LearnAboutSenderIdentification>] [Learn why this is important at](#)

Hello Eric,

Good day and I hope this email finds you well.

I am writing in reference to the flyer received in the mail box regarding the development plan at 400 Westwood Drive, Kitchener.

Summary of comments:- My partner and do not support the development plan; we strongly oppose it.

1. The Westwood Drive road is narrow and congested most of the times. Parking outside 400 Westwood Drive with the current dwelling itself blocks majority of the road. If 5 Street Fronting Townhomes are allowed there, that will make this problem even more severe.
2. The bus stop is also on the same side of the road where the proposed development is marked. The bus stop will also add to the traffic/congestion aspect of Westwood Drive.
3. If we consider the green aspect of the area; The park on Westwood Drive, which was supposed to be functional last year is still barricaded. Therefore, you will see a lot of people taking walks and using Westwood Drive and the proposed area of development to walk. In spite of considering all the tree cover and the green space along the length of Westwood Drive, the residents of 403 Westwood Drive and 423 Westwood Drive will lose their current immediate access across the road to green spaces.
4. The website which is supposed to show the development project on <https://can01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.kitchener.ca%2FPlanningApplications&data=05%7C02%7Ceric.Schneider%40kitchener.ca%7Cdbb3920c4e221d6608dc64942e8c%7Cc703d79153f643a59255622eb33a1b0b%7C0%7C0%7C638495834795447897%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C0%7C%7C%7C&sdata=IGPhTk6UQYPDerV4kYJVzY%2ByEYDE3kE%2BY7bxvT9ANbw%3D&reserved=0>, doesn't work. I tried to access it 3 times last evening, but the project wasn't listed on it.
5. The road and intersection leading to 400 Westwood Drive (coming from Fisherhallman and Glasgow street intersection) is always congested as well, and is always in need of repairs, the planned development will be adding more than required traffic on both these roads. Also, the speed of this road is 40kmph which will further slow down the traffic.
6. While taking a left turn from Westwood Drive onto Glasgow Street, there is a lot of wait time as traffic has increased in the area. With the addition of these proposed 5 townhomes, this is going to create chaos especially during morning school bus hours and peak hours and rush hours.
7. If these 5 fronting townhomes were facing Glasgow Street, it would have been a better idea, because there is a bike lane there-which is hardly used, and that lane can be used for providing an additional lane for accessing the 5 street fronting townhomes.

Westwood Drive is already suffering from bad roads and extremely delayed lifestyle development. The proposed application for development stands to benefit only a select few (maybe the landowner and the builder alone) and does greater harm to the neighbourhood as a whole. Thus, we strongly oppose the development application of 400 Westwood Drive 5 Street Fronting Townhomes.

Sumit Choudhary

Kitchener
Ontario

Dear Mr. Schneider,

Please accept the following comments on the zoning by-law amendment and proposed development at 400 Westwood Drive, Kitchener (ZBA 21/012/W/ES). I am writing this letter of comment on behalf of our family at _____, the south-adjacent neighbor to the subject property. Given that a great deal of concerns identified with this proposal have already been addressed in part through the Green Belt Neighborhood Association group submission – my comments will focus primarily on the direct impacts to our property,

To summarize briefly: this proposal does not represent sound planning, it fails to address any of the serious concerns identified in the first proposal with respect to our property, it is incompatible with and unreasonably detrimental to its surroundings, it lacks acknowledged required consent agreements necessary for its execution and as such, it should not be approved by the City of Kitchener.

Further, the owner/developer has already begun undertaking inappropriate and possibly unlawful actions related to this proposal, outside of the City-managed process, in violation of their own statements and assurances, and in contravention of clear cautions issued by our lawyers – which have already caused damage to our property and harmed our sense of security in our own home. These actions were outlined in an earlier notice that I submitted on May 6th, 2024 to yourself and City Councilor Margaret Johnston. Such actions are a serious violation of public trust and I reiterate here that they should be taken into consideration by City officials upon review of any and all proposals from this owner/developer, and that our property must be protected from further damages.

A summary of the most serious and urgent concerns we have with the proposal are listed below, and a more detailed elaboration of each are contained in the subsequent pages of this letter.

1. The owner/developer seeks to modify/damage/remove a stone retaining wall and earth berm which is solely our property and which we previously cautioned would not be permitted.
2. The owner/developer seeks to remove nearly all trees present along the boundary which we contend require our written approval and which we previously cautioned would not be granted.
3. The owner/developer seeks to drastically and detrimentally modify the grading throughout the lot (particularly along our shared boundary), greatly increase the proportion of impervious land on the lot (particularly along our shared boundary) and force significantly increased drainage water flows onto our property. This again is in direct contravention of cautions we issued that we would not accept these excess water flows.
4. The owner/developer seeks to change zoning classification in a way which would be unreasonably detrimental and burdensome solely to our property.
5. The owner/developer seeks to remove trees throughout their property such that they would effectively sever our wooded lot from the prevailing mature urban forest to which it belongs.
6. The owner/developer has misrepresented and otherwise shown a pattern of disregard for our property and made no attempts to reconcile any of our previously communicated concerns.
7. The community is unified in opposition to this proposal due to the clear negative impacts and precedent for mature urban forest degradation it represents.

Sincerely,

Saladin and Alen Sahinovic

Points 1 & 2 – The Stone Retaining Wall and Boundary Trees

As previously stated, in both the original proposal and the recent second proposal, the owner/developer of 400 Westwood Drive has incorporated, acknowledged, referred to and implied in numerous parts of their submitted plan documents, including being expressly stated in plan drawings – the demolition, modification and removal of our retaining wall, our trees, and the grading pattern along the shared boundary without our consent.

It is unclear how such a plan could possibly be approved by the City given that it clearly requires our direct consent and approval. It is likewise unclear how such a plan, submitted by an “expert” development firm could be considered adequately prepared for review and consideration for approval/rejection by the City without these requisite permissions.

I reiterate here that upon their submission, and still to this day, the owner/developer has never sought, nor made any attempt to seek any approval from us for the demolition and removal of a purpose-built structure or trees which are solely our property. They failed to do so upon submission of the first proposal where it could perhaps be seen as an oversight, but they again failed to do so for the second proposal, even after our submitted comments clearly indicated that we were unwilling to grant consent. This seems to demonstrate that they disregard our concerns entirely and have no desire to attempt to reconcile any of them within this process.

Aside from the direct demolition of the wall as referenced in the submitted proposals, the secondary effects of grading modifications and tree removals along the shared boundary pose a serious and unacceptable threat to our property and our safety. It is readily apparent, and indeed acknowledged by the developer, that the proposed changes could not be undertaken safely without permitted access to our property and without permitted prior removal of our wall. Thus, it is likewise apparent that the retaining wall, the elevated terrain area (earth berm), supportive grading and the large trees with expansive root systems that exist along that boundary are effectively inseparable and cannot be individually removed or modified without a direct impact to one another, and by extension, such removals or modifications would necessitate mutual agreement between both properties.

The stone wall itself was defined in the original subdivision of the property that created both the and 400 Westwood Drive lots. It was constructed and put in place to serve as a mutually maintained, elevated-terrain shared boundary area to support a natural tree and vegetation buffer which would provide sightline screening and ultimately define the natural character and privacy of both lots. It has existed for these many decades and been mutually, beneficially used and relied upon by both properties for that original purpose, and our normal use and enjoyment of that portion of our land has been sacrificed in support of that usage. The elevated shared boundary, the wall and the trees that exist linearly along it are fundamental to the character of both existing properties. Its presence is particularly important for our property, since our home was designed and built with the screening in mind and has its front oriented facing North, directly toward the boundary with 400 Westwood Drive.

It does not seem reasonable nor just that this shared boundary and all of its features which have served both properties since they were created, could now be unilaterally eliminated by the owner of just one property for the sole benefit of that property, and at the sole detriment of the other.

Points 1 & 2 – The Stone Retaining Wall and Boundary Trees – Continued (Photo, Figure 1)

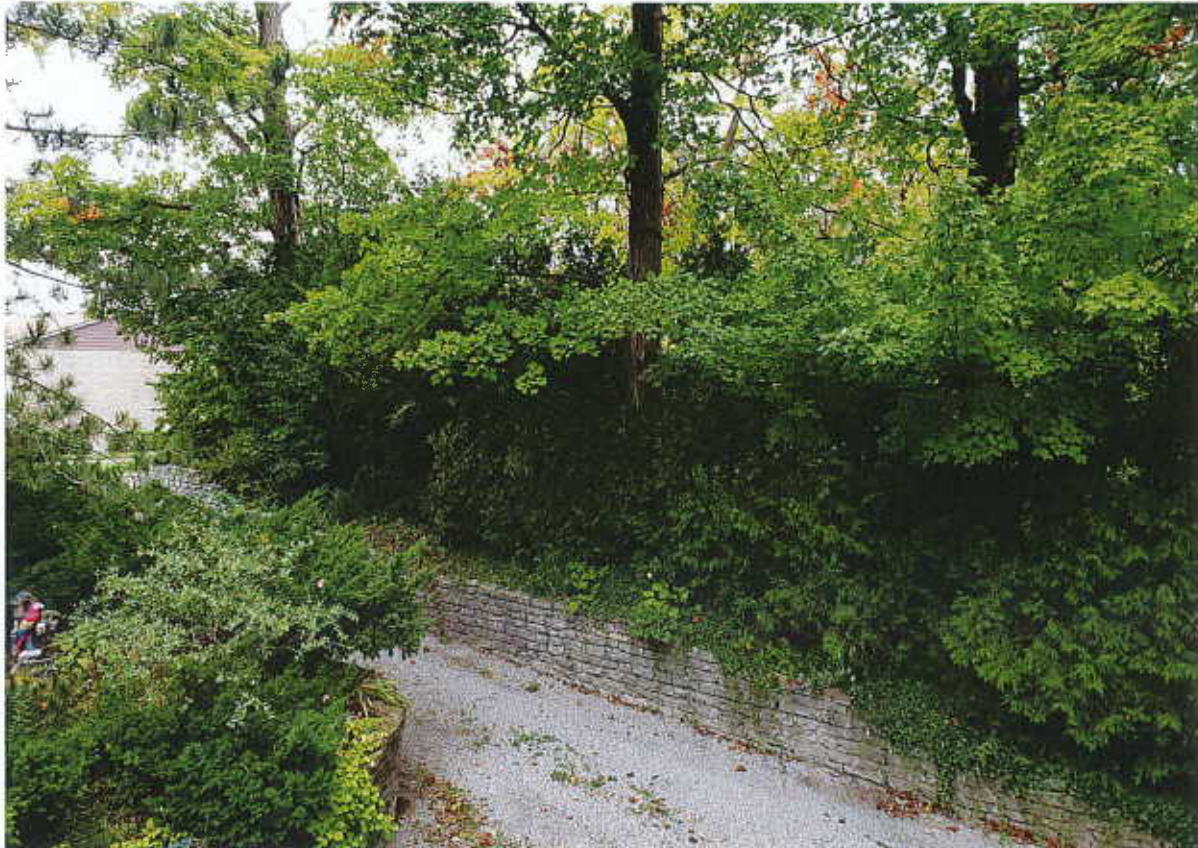


Figure 1: Showing a view of the retaining wall and shared boundary area and shared boundary trees. Dense natural screening obscures sightlines entirely between the properties. The photograph was taken from our elevated porch at the front of our house which is oriented North, directly facing the boundary with the subject property, 400 Westwood Drive.

Engulfed in the foliage and not visible in this photograph is the chain-link fence which represents the actual property line between . and 400 Westwood. Even the hidden chain-link fence is green in colour, selected in consideration of the thoughtful blending of the properties into the natural surroundings of the mature urban forest. The non-visibility of the chain-link property line is an indication of how interwoven and inseparable the features along the boundary truly are.

This proposal seeks to destroy everything shown here beyond the gravel entirely and erect an oppressive 3-storey structure at a distance roughly equivalent to some of the tall trees that can be seen.

Point 3 – Grading and Drainage

As previously mentioned above, and was thoroughly described similarly in our original submission by our professional representatives, the changes proposed to the grading along the boundary in conjunction with the demolition and removal of our retaining wall and the replacement of what are presently exclusively-permeable lands with impervious land and structures along the boundary, represent an obvious, forced redirection of drainage water flows onto our land.

In our prior submissions our representatives clearly cautioned that such modifications and forced redirection of stormwater drainage water flows onto our property would not be accepted by us. It should be apparent that there is no reason why we would be expected to accept and bear such excess drainage water flows onto our property which would clearly be detrimental.

Our permeable gravel driveway, descending from the street/sidewalk elevation level already experiences difficulty in managing even moderate rainfall and tends to create temporary pools and water streams that flow near our house and into our even-lower rear yard.

Additional drainage water flows which would be taken on if this proposal were to proceed as indicated, would critically increase these difficulties and create an unmanageable burden of absorbing stormwater flows on our property which could reasonably be expected to lead to a risk of flooding of our house at the ground level. Further, it would pose a serious risk that these excess water flows would flow down to our home's foundation and lead to catastrophic structural damage. Beyond that, it risks leading to flooding/pooling in our lower rear yard which we expect would potentially destroy our established gardens, vegetation and harm our trees.

The only reasonable and indeed obvious way to proceed with a development and maintain drainage flow patterns which do not adversely affect our property is to: leave intact the totally permeable lands and their favorable grading along the boundary, maintain the wall in its entirety and substantially increase the proposed setback of structures and impervious land to allow the foregoing.

Points 4-7 – Disorderly Zoning, Interface to the Mature Forest, Misrepresentations – (Part 1)

As mentioned above and detailed in the Green Belt Neighborhood Association group submission, this proposal would initiate a breakdown of orderly zoning patterns that have underpinned all previous developments that have occurred in the broader neighborhood and on Westwood Drive in particular.

This is problematic on its own, but is magnified and made even worse given the setting of the subject property in a totally uniform band of R1 zoning and directly within the mature urban forest that exists in that band. No development has taken place in the established mature urban forest which has necessitated a change from the existing zoning – much less a change of 3 zoning classification levels and beyond that, violation of critically relevant minimums of even that newly sought classification.

It is our view, and one that is shared with the community broadly, that protection against these kinds of obviously irregular and incompatible development proposals is precisely why planning reviews and zoning classification exists in our City. This mature urban forest is an irreplaceable asset to the community and to the City, and the unified consensus of the actual residents of our neighborhood in opposition to this proposal is a clear recognition of the importance and inherent value of that community asset and the orderly development patterns that have thus far largely protected it.

In regard to our property, the proposed change of zoning classification for the subject property would completely sever and disconnect our property from the prevailing uniform band of R1 zoning and the contiguous mature urban forest. The proposal weakly attempts to persuade that a drastic multi-classification-level disruption of an otherwise orderly pattern of homogenous zoning bands which thoughtfully interface between one another along the street and throughout the neighborhood, applied only to a single property, is somehow representative of good planning and is “in keeping with surroundings”.

The change as proposed would leave our property isolated and detached from all of the other matching properties in our zoning band, existing as an island with the remaining highly restrictive zoning classification, surrounded on each side by a different zoning classification.

This would in-effect impose a de-facto zoning classification change on our property which we cannot accept and will not consent to. This zoning change solely places an unreasonable burden on our property and our family of 25+ year Westwood Drive residents, while simultaneously, solely serving to benefit the profit-priority motives of the non-resident owner/developer of the subject property.

The weakness of the attempted persuasion is evident in the numerous misrepresentations it makes throughout the proposal regarding our property, the impacts of the proposal, and the context of the setting of the subject property which are outlined in the subsequent pages of this letter.

Points 4-7 – Disorderly Zoning, Interface to the Mature Forest, Misrepresentations – (Part 2)

- In section 1.0 of the “Revised Plan” (April 9, 2024) – “Revised Proposal”, page 2, they state:

“These street townhouse dwellings will be oriented toward Westwood Drive, in keeping with the adjacent townhouse developments”

Comment: This is an untrue and misleading statement. There are no adjacent townhouse developments. The only adjacent properties are R1 single-detached. It suggests that “adjacent” is an appropriate way to describe a development which is outside of the subject zoning band, remotely located in relation to the subject property, and well away down and across the street. It is unsurprising to us that such an untrue and misleading statement would be used as an attempted justification that would serve to support the intent of the proposal.

- In section 1.0 of the “Revised Plan” (April 9, 2024) – “Revised Proposal”, page 2, they state:

“Similar to the original submission, this configuration is designed to conserve the woodlot/vegetation in the northern and eastern extent of the subject property.”

Comment: This appears to be an admission that latest proposal gave due consideration to, and was designed to conserve woodlots and vegetation on only – the northern and eastern sides of the subject property (not on the same street where the subject property resides) while giving no consideration to and devastating everything that even resembles the existing character along the south (the only adjacent property on the same street as the subject property – Westwood Drive). This is unsurprising to us given that it neatly fits what appears to us to be a clear pattern this owner/developer has demonstrated of misdirecting from and disregarding the effects of the proposal, and our clearly communicated concerns, regarding the most detrimentally impacted adjacent property, ours, 396 Westwood Drive (south-adjacent).

- In section 2.0 of the “Revised Plan” (April 9, 2024) – “Planning Analysis”, page 3, they state:

“The proposed development is designed to minimize impacts to the existing woodlot/vegetation on the subject property”

Comment: This is another misleading statement which attempts to weakly reinforce a premise that redevelopment of the existing property with a single 1.5 storey home into 5 lots with 3+ storey townhouses is the only possible approach and that it somehow is designed to minimize impacts to the existing woodlot/vegetation. This premise does not withstand even the most basic scrutiny as countless alternatives are easily possible and indeed better suited to serve the minimization of impacts.

It is of further concern that the development indicated in this proposal is acknowledged by the owner/developer to be “conceptual-only” and if a zoning amendment were to be granted, a yet far more harmful plan could be introduced and enacted on the subject property with little recourse by even the City to mitigate the consequences.

Points 4-7 – Disorderly Zoning, Interface to the Mature Forest, Misrepresentations – (Part 3)

- In section 2.0 of the “Revised Plan” (April 9, 2024) – “Planning Analysis”, page 3, they state:

“The proposed development conforms to the general policies of the ROP [...] contributes to the creation of complete communities, and respects the scale, character, and context of the surrounding established neighborhood. Therefore, a ROP Amendment is not required, as it is our opinion that the proposed development is in conformity with the ROP.”

Comment: This is among the most egregiously misleading and untrue statements offered in this proposal. Given the overwhelming and consistent objections of the community, the critically damaging effects on the mature urban forest, the unprecedented breakdown of orderly zoning patterns, the total incompatibility/dissimilarity of the proposed development to its surroundings and the unreasonably destructive impacts to adjacent properties like ours – it is utterly confounding to attempt to understand the basis for the conclusion drawn above.

- In section 3.0 of the “Revised Plan” (April 9, 2024) – “Conclusion”, page 4, they state:

“We trust that you will find the enclosed resubmission package “complete” to undertake a review of the proposal and recirculation of the Zoning By-Law Amendment Application. As previously mentioned, it is our opinion that the proposed revisions to this application address all of the City comments received to date”

Comment: As I’ve indicated in past submissions and several times in this letter this application/proposal cannot be considered “complete” as stated. Given that even the owner/developer acknowledges that fundamental to development proposed, particularly along the southern boundary, consent agreements with adjacent properties would be required to proceed with the development as outlined. Since no such consent was ever sought by the owner/developer and none was ever granted by us or the other adjacent property owners, the resubmission of this proposal cannot and should not be considered complete.

In addition, it certainly does not “address all of the comments received to date”. In fact, it has addressed absolutely none of the comments or concerns related to the most detrimentally impacted property, whose consent is acknowledged to be required by the owner/developer for fundamental aspects of their proposed plan. This is yet another example of an untrue and misleading statement which misrepresents the context of the proposal in favor of attempting to persuade the reader of something which is false.

There are numerous other similar, critically untrue, misleading and misrepresentative statements that are made in the remainder of this proposal. Indeed, the above statements were collected from only the first four (4) pages of a 46-page submission from the owner/developer.

To refrain from taking more time from the reader of my letter, I will withhold further elaboration of those statements until a later time and simply complete this final section with some images of the zoning map for the local area, and an aerial view of our neighborhood on the next two (2) pages.

Points 4-7 – Disorderly Zoning, Interface to the Mature Forest, Misrepresentations – (Part 4, Figure 2)



Figure 2: Showing an aerial view with:

- Green Belt Neighborhood outlined [GREEN]
- Original 1978 Munk Lot [BLUE]
- Recent similar proposal rejected by OMB [PURPLE]
- Subject property (400 Westwood) [RED]
- Our property [YELLOW]

The proposal seeks to persuade the reader that the proposed development at 400 Westwood [RED] which is described by the owner/developer as being similar to the townhouses that are shown in the south-west-most extent of the neighborhood (development since completed), is “appropriate in the context of the mature urban forest and respects/matches the scale and character of established surrounding developments”.

Shown here also is our property [YELLOW] and how it would be cut off from the contiguous mature urban forest it has always been a part of if the above were to proceed.

Points 4-7 – Disorderly Zoning, Interface to the Mature Forest, Misrepresentations – (Part 5, Figure 3)



Figure 3: Showing the zoning map for the neighborhood. In PINK is the subject property (400 Westwood) and in GREEN is our property

It is clear in the above image that both highlighted properties are part of a uniform band of matched R1 zoning developments.

It is also apparent how this proposal would create an arbitrarily convoluted and irrational pocket of irregular zoning disrupting an otherwise uniform historical pattern of development.

It would also leave our property completely isolated and detached from all of the other matching properties in our zoning band.

Eric Schneider

From: Ali
Sent: Tuesday, May 21, 2024 1:04 PM
To: Eric Schneider; Margaret Johnston
Subject: Re: 400 westwood dr

Some people who received this message don't often get email from ,

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Hello,

I opposed to such construction building plan in this neighborhood and that location as it will damage the knot of neighborhood even further. Those townhomes along with the houses beside them and the high rise townhouses in front of them will all make an unpleasant mixture look of neighborhood street design. I hope a new individual buyer by the house and leave in it without further damaging to street design and take away all the greens away.

Ali Mohebbi

Eric Schneider

From:
Sent: Saturday, May 25, 2024 11:45 AM
To: Alen S.; Eric Schneider; Margaret Johnston; Kate Lawson
Subject: Draft Minutes: 396 Westwood's October 2021 letter about 400 Westwood proposal

A pragmatic distribution of draft minutes is needed.

I would usually provide more days for everyone to review before sending to large group; however, Alen's scheduled work trip + my back to back conferences dictates cutting the first round input for yesterday's meeting participants short to say 10 am Monday, plus I'm including Alen and Margaret at this point.

Minutes of in-person meeting about 400 Westwood Drive proposed development - Friday, May 24 2024

**Attendees: Eric Schneider, Senior Planner, Development and Housing Approvals Division
Kate Lawson and Judy-Anne Chapman, concerned Green Belt Neighbourhood residents**

Postponement: Telephone meeting between Eric Schneider and Alen Sahinovic will take place first week of June.

1. March 25, 2024 Kitchener approved Official Plan Amendment (OPA 47) modifies the text of the Official Plan to enable up to four dwelling units to be located on lands which currently permit a single detached dwelling, semi-detached dwelling or street townhouse dwelling; By-law 2024-073 amends Zoning By-law 85-1, and By-law 2024-074 amends By-law 2019-051, known as the Zoning By-law for the City of Kitchener - Enabling Four Units.

Judy-Anne was sent hard copy of City of Kitchener materials after participation in Engage Kitchener interactions about this topic. Eric indicated that these Kitchener approvals await Regional approval. He also indicated that Kitchener plans for implementation for the proposed street townhouse dwellings would permit the four southern most townhouses to have up to 2 units while the northern most one would be permitted 4 (Total potential of 12 dwelling units). These revised maximums will be used in an amended Table in the neighbourhood group submission.

2. Discussion of previous and current proposals for 400 Westwood Drive

Eric provided the full online package of materials on 11 x 18 paper for discussions. As indicated above, a full discussion will take place later with Alen. Eric indicated that he could not find any submission in City files for the first proposal about 396 Westwood concerns of 400 Westwood development's impact, so specific 396 Westwood Drive considerations were not incorporated in the second proposal. Judy-Anne indicated that for the first proposal Mark Dorfman jointly represented the Glasgow property of Joe Jasinskas and Paul Goodwin to the north of 400 Westwood and the 396 Westwood interests of Alen's family; Alen had also referred to first submission legal input. Judy-Anne asked Alen to resubmit his family's first round materials to Eric. The group neighbourhood submission had a summary position for 396 Westwood which was consistent with the formal specific 396 submission(s); it has also been re-submitted for easy reference.

3. Discussion of RES-1 zoning surrounding 400 Westwood Drive

400 Westwood Drive is part of and contiguously surrounded by RES-1 zoning specifically applied to properties with mature urban forest. Since Green Belt Neighborhood's inception in 1978, the time-period specific named zoning for mature urban forest in this area has been applied to the (re-)developments, including the previous 2 re-developments of the property from which the current 400 Westwood remains. Neighbours have recognized and supported the rights of development under in-force named zoning as long as there was tree protection and respected protection of neighbours' trees.

The current proposal to change to RES-4 zoning creates patchwork zoning. i.e. Going south from Glasgow Steet on the east side of Westwood Drive, the proposed zone change for 400 Westwood Drive to **RES-4** would create a patchwork zoning; the 3 current adjacent **RES-1** properties would become: **RES-1**; **RES-4**, **RES-1**, followed by **RES-4** duplexes. The south east corner of 400 Westwood Drive interfaces with an extensive area of **RES-2** single-detached dwellings on Dayman Cres. Note that the **RES-4** duplexes and **RES-2** single-detached dwellings were built on untreed land.

A discussion ensued about options possible under RES-1 zoning that would in particular maximize protection of the street scape earth berm buffer with trees, vegetation, and protection of 396 Westwood property. (Aside: *Economically*, it may be advantageous to the developer to have potential 12 dwelling units clustered on (after variances) 3 RES-1 properties, with front street buffers. It would definitely be advantageous to the whole neighbourhood to maintain RES-1 zoning in this development. It is also very advantageous to the immediate neighbourhood to protect the streetscape berm and fully protect 396 Westwood.)

1. **Currently:** 1 large single family home/1 driveway with potential for 4 dwelling units*
2. **As of right:** 2 large single family homes/1 driveway**, each of which has potential of 4 dwelling units*
3. **With variances:** 3 single family homes/1 driveway**, each of which has potential of 4 dwelling units*

*Per Kitchener approved enabling of 4 dwellings; this comes with understanding of incorporating access for services by City of Kitchener.

**With easements on title during severance.

On Friday, May 24, 2024 at 07:19:01 PM EDT

wrote:

Eric kindly met with Kate and I this afternoon for very productive clarifications about the 400 Westwood first and second proposals.

Alen, Eric cannot find the 2021 submission from your family in the City files. Would you please resend your first set of comments for which I know you had legal input.

Please find attached a resend of the group submission that has a short synopsis about the impact on 396 Westwood that was directionally consistent with your letter.

Eric provided a full print-out of the City materials on the current proposal that I'll bring over for your family in a few minutes as I am unsure when you are leaving for your work trip. Thank you Eric for these materials.

I will update everyone with minutes of this afternoon's meeting in the next day or so.

Judy-Anne

Merged-Annotated Green Belt and Arcadis Principle Directions for 400 Westwood Drive development – Friday, November 08, 2024

Contact: Judy-Anne Chapman, Ph.D., P.Stat.,

Merged-Annotated Principle Directions Note: Three base documents are used as primary sources for this document into which there are thematic extractions from identified emails to maintain the thematic flow.

The following base documents are used:

I. Green Belt Neighbourhood Association Principles:

- Protect and maintain mature urban forest in Green Belt Neighbourhood.
- Development under existing zoning.
- Collaborative interactions with developers that led multiple times to supporting development plans and variances at Planning and Kitchener Council.

II. Appendix 1. Arcadis formal letter of Response (Attached)

III. Appendix 2. Arcadis Plan (Attached)

1. 400 Westwood Drive: part of, and contiguously surrounded by, RES-1 zoning specifically applied to properties with mature urban forest. Since 1978, mature urban forest zoning has been applied to the (re-)developments, including the previous 2 re-developments of the property from which the current 400 Westwood remains. Neighbours have recognized and supported the rights of development under in-force named zoning as long as there was tree protection and respected protection of neighbours' trees.

JC (Judy-Anne Chapman) Response 1. October 29, 2024 1:03 PM

"...Kate (Lawson) and I interacted directly with Alen (Sahinovic; son of _____ owner, Saladin Sahinovic) whose property's repair, protection, and ongoing rights have not been addressed by Christian (Tsimenidis)."

CT (Christian Tsimenidis) Response 1. November 1, 2024 at 2:58 PM

- It is my professional opinion that our client's proposal addresses the concerns pertaining to the trees, as a technical review was prepared by a qualified professional, as per the updated Arborist Report and Tree Management / Enhancement Plan submitted by our firm. Environmental Planning Staff at the City have reviewed this work and accept/concur with the recommendations of this technical review.
- The existing retaining wall leading into and along the driveway of 396 Westwood Drive is not within the property boundaries of 400 Westwood Drive. It is within the property boundaries of 396 Westwood Drive. This is understood by all parties.

- At the appropriate time, as one of the Conditions of the future Consent Application to sever the lands for the townhouses, the City will require that a Lot Grading and Drainage Plan to be prepared by a qualified professional engineer. In the preparation of that plan, the engineer would have to ensure that the existing retaining wall (on 396 Westwood Drive) is not affected by grading or site alteration.
- **The City would review all plans, and when satisfied, approve the plans for implementation.**
- A 2.5 metre side-yard setback from the southern property line (adjacent to 396 Westwood Dr) is proposed on the Concept Plan, which meets the minimum zoning requirement of the RES-4 Zone.
- The proposal meets the general intent and purpose of the Official Plan and Zoning By-law.

JC Response 2. November 1, 2024 4:05 PM

"...First, I need confirmation about several development elements brought forward at the meeting that are not referenced in your response:

1. There are 2 shared trees between 400 and 396 Westwood that Douglas (Stewart) said would be lost during development of the 5th property adjacent to 396; my understanding is that 396 has not given permission for their loss. Does the plan still include removal of the shared trees?
2. You acknowledge that the wall between 400 and 396 is on 396 property. Yet, despite a letter from 396 lawyer stating that there was to be no entrance to 396 without owners' permission, a tree between 400 and 396 was removed, without notice or permission, from the 396 property side, damaging the 396 wall as well as the 396 wall on the far side of the driveway. You are going to provide written acknowledgement, commitment, and statement of timeline for rectifying this situation before proceeding further?
3. Further, will you provide protective measures that will go beyond drainage to cover the existing berm and mature trees, vegetation between 400 and 396, as well as on and supporting 396 property.."

CT Response 2. November 1, 2024 at 04:50:23 PM

To respond to some of your initial questions/comments, please see below:

- The proposed trees to be removed, as well as the one (1) existing tree that was removed in April 2024 due to public safety concerns of large dead branches hanging over the public sidewalk (with City's review and permission to cut) along the southern-property line (396 Westwood Drive) **are ALL within the property boundaries of 400 Westwood Drive.** As per the survey completed, all of the trees proposed to be removed are not shared and are within the boundaries of our client's property. Further, on April 17 and 18 of this year, a licenced arborist from Arcadis was on-site to review the tree removal for those several trees that were of concern to public safety (again, with City's review and permission to cut).
- I may defer to [@Eric Schneider](#) for a response on City process/approvals, but in addition to drainage, all works required for the proposed development go through review and approval from City Staff prior to commencing. The future works will implement the

recommendations and conclusions of the Arborist Report and Tree Management / Enhancement Plan, grading and drainage plan, **and all other required plans** at the Consent Application and Building Permit stage to meet the City's standards.

JC Response 3. November 1, 2024 6:10 PM

...I really need to quickly ask who you think is responsible for at least notifying a neighbour about pending work initiated by a pending developer that is done on the 396 Westwood neighbour's property, with ensuing damage. City Staff had the legal letter from Alen's lawyer.

Surely, it is not the affected neighbour who is responsible for sequelae?

Current status:

→ During city authorized/developer implemented removal of tree between 400 and 396 Westwood Drive:

- The 396 owner was not notified of pending tree removal.
- The work was performed April 2024 from 396 property side, without the owner's permission.
- Damage to 396 property from tree removal has not been repaired.
- Please make arrangements with the 396 owner to repair the damage.

→ Another 2 trees between 400 and 396 Westwood would be lost by the current development proposal:

- Classification is needed about whether these 2 trees are shared.
- The 396 owner does not approve the removal of the 2 trees.
- Any development proposal would need to protect the 2 trees should they be shared with 396; regardless of ownership, the removal of the 2 remaining trees needs to be done in a way which protects 396 trees/property.

2. Current 400 Westwood development proposal:

.1 Change of RES-1 to RES-4 zoning creates patchwork zoning. i.e. Going south from Glasgow Steet on the east side of Westwood Drive, proposed zone change for 400 Westwood Drive to RES-4 would create a patchwork zoning; the 3 current adjacent RES-1 properties would become: RES-1; RES-4, RES-1, followed by RES-4 duplexes. South east corner of 400 Westwood Drive interfaces with an extensive area of RES-2 single-detached dwellings on Dayman Court.

Note:: RES-4 duplexes and RES-2 single-detached dwellings were built on untreed land.

JC Comment 1. November 3, 2024

- That the proposed development's zone change from RES-1 to RES-4 creates patchwork zoning is a fact.
- Patchwork zoning in this neighbourhood may contribute to negative effects on the integrity of the mature urban forest and its preservation as an ecosystem that helps mitigate climate change, absorb large amounts of run off precipitation, and support a wide variety of birds, mammals, and other species.

- **Properties with RES-1 zoning have mature urban forest.**
- **RES-1 zoning has been maintained during (re-)development of RES-1 properties since the 1978 formation of Green Belt Neighbourhood Association.**
- **(Re-)development of RES-4 has been on untreed land.**
- **A physical “treeline” exists at the front of 400 Westwood:** a substantive height mature treed/plant berm.
- **Proposed RES-4 development changes not only zoning, RES-1 to RES-4, but removal of mature treed/plant berm in front of development, physically removes the street “treeline” converting the street appearance to that of RES-4 properties on previously always untreed properties.**
- **We disagree with this proposed breach of zoning “treeline” for it’s negative precedent in the context of Kitchener’s Strategic Plan to protect/maintain and increase canopy cover.**

CT Comment 1. N/A

.2 RES-4 zoning creating 5 street facing town houses requires additional variances: Kitchener enabling of dwelling units, as of right, allows (future owners) **total of 12 dwelling units.**

CT Comment 2. Appendix 1 – first horizontal row

The proposed development provides for five (5) freehold townhouse units. No Additional Residential Units are proposed.

Alternatively, the Neighbourhood Association proposal provides for one, two or three freehold single-detached dwelling units together with Additional Residential Units that would be rental. This results in a significant different land use and tenure.

JC Comment 2. November 3, 2024

As carefully worded in our point, Kitchener has approved “as of right” conversion of street facing townhouses to permit, by Eric Schneider’s details, future owners for the proposed location 5 freehold townhouse units becoming 12 dwelling units.

We agree that this results in a significant different land use and tenure which is why we brought the matter forward; it is legally what could occur without any say by the neighbourhood should the 5 townhouse units be approved. Our statement is accurate.

3. Goals of alternate principles for 400 Westwood Drive:

.1 Develop under RES-1 with consensus variances from City Staff and Neighbourhood: maintain economically valuable new homes’ privacy behind existing earth berm and mature trees/hedge:

**Option 1: Re-development 1 large single family home/1 driveway;
potential as of right 4 dwelling units.**

**Option 2: As of right 2 large single family homes/1 driveway*;
potential as of right 8 dwelling units**

**Option 3: With Consensus variances:
3 single family homes/1 driveway *;
potential as of right 12 dwelling units**

* With right of way and easements on title during severance.

CT Comment 3. Appendix 1 – left side of second horizontal row

The proposed development provides for five (5) driveways to Westwood Drive, **which could be reduced to three (3) driveways/accesses along Westwood Drive should the driveways be paired.** City Staff have no concerns with five (5) driveways.

JC Comment 3. November 3, 2024

Our concerns stem from the extensive removal of the mature treed/plant berm for the new driveways. As well, Westwood is already heavily used for on street parking in this area which exacerbates traffic flow; even 3 driveways would be problematic. Since 1978, Green Belt has sought consensus solutions with developers. In a discussion with Eric Schneider, we were told that one way to keep the current single access would be to have easement/right-of-way granted.

CT Comment 4. Appendix 1 – right side of second horizontal row

Alternatively, the Neighbourhood Association proposal provides for one (1) access at the current location to Westwood Drive with the intent that easement/right-of-way be granted between the lots.

This results in a different access configuration, and in order to address technical design requirements, this would result in, (1) increasing the building setback to ensure sufficient turning radii, and (2) providing more off-street parking space, thus reducing the tree protection area. Further, this approach requires registered easement/right-of-way and registered development agreements to address maintenance, snow removal and rights of access and to provide for a mechanism of resolving a dispute.

JC Comment 4. November 3, 2024

- Interesting design creativity may not require increased building setbacks, increased turning radii, and reduced tree protection area for very desirable single family lots. Many large single family homes have been advantageously re-developed in the Green Belt area; 2 single family homes could use the paired driveway concept mentioned by CT. Consensus variances with Kitchener Staff, developer and neighbourhood may only be required with 3 single family homes behind mature treed/plant berm. One might consider the creative orientation of existing and appreciated for decades 396 Westwood home, for 1 or 2 end units to have front side access in an upside down “L” (i.e. “l”) or upright “T” pattern. RES-1 zoning, nestled inside mature treed/plant berm, should be attractive to future owners. There would be neighbourhood support for needed variances to permit this. At the in-person meeting with Eric, former Arcadis planner, Douglas Stewart, Kate Lawson, and I, there was consensus for development maintaining current tree protection area at the north and east; we think those protection areas should be maintained. Our differences concern the removal of the western trees along Westwood front of development area, and protection of southern 396 property.
- The current development proposal has **zone change from RES-1 to RES-4, and still requires variances for RES-4.**

→**Note: Option 3, like current development proposal, achieves (eventually) possibility of 12 dwelling units with City variances to existing RES-1, i.e. without a zone change.**

.2 Protects neighbourhood street scape and 396 Westwood with existing large earth berm and mature trees/hedge.

CT Comment 5. Appendix 1 – left side of third horizontal row

The proposed development provides for the removal of the existing stone retaining wall along Westwood.

JC Comment 5. November 3, 2024

The existing stone wall should not all be removed as it inherently supports the stone wall on 396 Westwood which the owners of 396 intend to keep as it is integral to their property and trees on the shared mature treed/plant berm between 400 and 396.

CT Comment 6. Appendix 1 – right side of third horizontal row

Alternatively, the Neighbourhood Association proposal provides for retention of the existing stone wall.

This results in requiring an agreement between the owners to ensure the stone wall is maintained/repared should it remain, and for easements to address access and stormwater management overland flow.

As per the revised Arborist Report and Tree Preservation and Enhancement Plans prepared by Arcadis dated March 27, 2024 the existing vegetation along the existing Westwood Drive frontage is not significant and does not need to be preserved/maintained.

Should the existing retaining wall be preserved, this would “push-back” and/or increase the depth of the building line (access/parking), thus reducing the tree protection area located in the rear portion on the subject lands.

Further, Crime Prevention Through Environmental Design (CPTED) notes that having eyes on the street is a key principle for safety of the street and the neighbourhood. The stone wall and vegetation prohibit meeting that principle.

JC Comment 6. November 3, 2024

- As in comment 5, the 396 Westwood owners do not intend to remove their stone wall which requires sufficient support from the existing stone wall in front of 400 Westwood. I have been in Green Belt >46 years, since the inception of the stone wall, and do not remember a need for repair. It would be arguable that stone wall weakness and loss of mature treed/plant berm arising from insufficient support due to 400's development could be attributable to the development. A legal agreement would need to be on title of 400 new home(s) to protect 396 property.
- If the City of Kitchener were to accept that “Crime Prevention Through Environmental Design” principles in fact *require* the removal of a “stone wall and vegetation,” then the (re-)development of all treed properties in the city would require the removal of mature trees, bushes, berms, etc. This is patently unreasonable.
- Such an interpretation would, moreover, conflict with the principles of the Kitchener “Sustainable Urban Forest Strategy.”
- New motion sensor technology supports CPTED. My 53 year old home has front yard mature tree cover and in the back yard is surrounded by mature trees. We have bright beam motion sensors front and back.
- As described earlier, 400 Westwood is surrounded by mature urban forest. I do not think one needs to remove stone walls and mature treed/plant berm for safety.

CT Comment 7. Appendix 1 – left side of fourth horizontal row

The proposed development ‘aligns with’ the existing building footprint to reduce the potential impact trees.

JC Comment 7. November 3, 2024

Thank you for using the northern and eastern footprints; this should be the case in any development approved to be true to Kitchener's Strategic Plan for Tree Canopy. It needs to be repeated that there is no plan to align with the western or southern footprints with the removal of the berm on the west and no consideration of 396 needs on the south.

CT Comment 8. Appendix 1 – right side of fourth horizontal row

Alternatively, the Neighbourhood Association proposal provides for a larger building footprint to accommodate the primary dwelling and the Additional Residential Units together with the driveway and parking requirements.

This results in the increased depth of the building line (access/parking), a larger building footprint, thus reducing the tree protection area.

JC Comment 8. November 3, 2024

Principles compatible with current zoning, and yes, current building footprint should be followed. I do not think any further development intrusion into existing treed area is warranted, nor do I think the proposed plan should go forward.

CT Comment 9. Appendix 1 – left side of fifth horizontal row

The proposed development would provide for service laterals from the proposed building to the street.

JC Comment 9. November 3, 2024

Proposed development provisions are for 5 units; provisions are only required for a maximum of 3, or 2 more than existing.

CT Comment 10. Appendix 1 – right side of fifth horizontal row

Alternatively, the Neighbourhood Association proposal provides for the service laterals from the proposed building to the street and crossing under the retaining wall.

Results in a more technical/challenging servicing that requires 'boring' under the stone retaining wall.

JC Comment 10. November 3, 2024

'Boring' under the stone wall was never proposed. 1 or 2 RES-1 single homes would surely be more straight forward than 3. Perhaps, if lateral access is too technically difficult to implement 3 RES-1 single homes; a limit of 2 might be considered necessary. Under Kitchener's as-of-right intensification, two singles would permit up to 8 dwelling units.

CT Comment 11. Appendix 1 – left side of fifth horizontal row

The proposed development requires a Zoning By-law Amendment to address the appropriate zoning category and site-specific regulations.

JC Comment 11. November 3, 2024

- Since 1978, re-development approval of RES-1 zoning (or previous zoning designation for mature urban forest) in Green Belt area has been under RES-1 (or previous designation).
- Granting approval of RES-4 zoning would be unprecedented for change from RES-1 to RES-4, as a zoning approved previously only for untreed land in this area.

- The development proposal creates patchwork zoning, and breaches streetscape zoning “treeline” with removal of mature treed/plant berm, by converting it to untreed streetscape.
- Further, variances are required for the **RES-4** implementation.

CT Comment 12. Appendix 1 – right side of fifth horizontal row

Alternatively, the Neighbourhood Association proposal prefers that no Zoning By-law Amendment is required, and variances are utilized to ensure a consistent zoning pattern for the neighbourhood.

The proposed Zoning By-law is in conformity with the Official Plan and is a planning tool permitted as per *The Planning Act*. It is not required that the specific zoning category be the same in the neighbourhood.

JC Comment 11. November 3, 2024

- **The Green Belt Neighbourhood has mixed zoning, and is not looking for the same zoning in the “neighbourhood”.**
- The contention is that **the proposed development and zone change are inappropriate for the “property”** for which it is sought and a negative precedent.
- The development proposal to change a RES-1 zoned property, currently surrounded by RES-1 mature urban forest properties, to a RES-4 zoned property, a zoning previously applied only to development of untreed land in the neighbourhood, is a negative precedent.
- This negative precedent is inconsistent with Kitchener’s aggressive Strategic Plan initiative to increase tree canopy cover.
- Both the proposed RES-4 development and a RES-1 option we suggest would permit as-of-right provision of up to 12 dwelling units. The zoning change has no advantage to increasing housing supply.