

REPORT TO: Committee of Adjustment

DATE OF MEETING: May 20, 2025

SUBMITTED BY: Tina Malone-Wright, Manager, Development Approvals
519-783-8913

PREPARED BY: Eric Schneider, Senior Planner, 519-783-8918

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: May 7, 2025

REPORT NO.: DSD-2025-229

SUBJECT: Minor Variance Application A2025-054 - 864 King Street West
Consent Application B2025-017 - 864 King Street West

RECOMMENDATION:

A. Minor Variance Application A2025-054 - 864 King Street West

That Minor Variance Application A2025-054 for 864 King Street West requesting relief from the following Sections of Zoning By-law 2019-051

- i) Section 6.5.2, Table 6-5 to allow for a Front Yard Lot Width (King Street West) of 2.2 metres instead of the minimum required 48 metres;
- ii) Site Specific Provision (415) a) for a minimum Yard Setback (South Property Line, Middle) of 0 metres instead of the minimum required 3 metres;
- iii) Site Specific Provision (415) a) for a minimum Yard Setback (West Property Line, Interior) of 0 metres instead of the minimum required 3 metres;
- iv) Site Specific Provision (415) e) for a minimum Physical Separation for Storeys 7-12 (South Property Line, Middle) of 0 metres instead of the minimum required 6 metres;
- v) Site Specific Provision (415) e) for a minimum Physical Separation for Storeys 7-12 (West Property Line, Interior) of 0 metres instead of the minimum required 6 metres;
- vi) Site Specific Provision (415) f) for a minimum Physical Separation for Storeys 13-18 (West Property, Interior) of 6.1 metres instead of the minimum required 9 metres;
- vii) Site Specific Provision (415) g) for a Minimum Physical Separation for Storeys 19-36 (West Property Line, Interior) of 6.1 metres instead of the minimum required 12 metres; and

- viii) **Site Specific Provision (415) h) for a Minimum Physical Separation for Storeys 37 and above (West Property Line, Interior) of 6.1 metres instead of the minimum required 15 metres;**

to facilitate the severance of the lands for construction phasing/financing purposes in accordance with drawings prepared by Reinders and Associates, dated March 3, 2025, BE APPROVED.

B. Consent Application B2025-017 – 864 King Street West

That Consent Application B2025-027 requesting consent to sever an irregular-shaped parcel of land measuring 2.2 metres by 90.4 metres and having an area of 3,045.1 square metres, BE APPROVED subject to the following conditions:

- 1. That Minor Variance Application A2025-054 receive final approval.**
- 2. That the Owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.**
- 3. That the Owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.**
- 4. That the owner provides a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full size paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.**
- 5. That the Owner shall enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor, to the satisfaction of the City Solicitor and the City's Manager, Site Plans, and registered on title to the severed lands, which shall include the following:**
 - i) That prior to the initiation of any site development works, grading or issuance of a Demolition and/or Building Permit the Owner agrees to submit and receive approval of a Site Plan to the satisfaction of the City's Manager, Site Plans, which reflects, at minimum, the proposed changes to the lot size and any associated changes to the operation and/or functioning of the site.***

Should a Site Plan Application be approved, to the satisfaction of the City's Manager, Site Plans, in accordance with the condition above prior to endorsement of the deed, the above noted condition shall not be required to be registered on title.

- 6. That the Transfer Easement document(s) required to create the Easement(s) being approved herein shall include the following, and shall be approved by the**

City Solicitor in consultation with the City's Manager, Development Approvals:

- a) a clear and specific description of the purpose of the Easement(s) 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); and
 - b) a clause/statement/wording confirming that the Easement(s) 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.
7. That 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.
8. That the Owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
9. That the Owner submit a Development Asset Drawing (digital AutoCAD) for the site (servicing, SWM etc.) with corresponding layer names and asset information to the satisfaction of the City's Director of Engineering Services, prior to deed endorsement.
10. That the Owner makes financial arrangements for the installation of any new service connections to the severed and/or retained lands and disconnection / abandonment of existing services that are no longer required to the satisfaction of the City's Director of Engineering Services.
11. That any new driveways are to be built to City of Kitchener standards at the Owner's expense prior to occupancy of the building to the satisfaction of the City's Director of Engineering Services.
12. That the Owner provides confirmation that the basement elevation can be drained by gravity to the street sewers to the satisfaction of the City's Director of Engineering Services. If this is not the case, then the owner will need to pump the sewage via a pump and forcemain to the property line and have a gravity sewer from the property line to the street to the satisfaction of the City's Director of Engineering Services.
13. That prior to final approval the Owner submits a valid Section 59 Notice.
14. That for the severed lands, the Owner/Developer enter into a registered development agreement with the Regional Municipality of Waterloo to implement the environmental noise recommendations specific to noise impacts from King Street West (Regional Road No. 8) identified in the noise study report entitled "Noise Feasibility Study, Proposed Residential Development, 864-872 King Street West, Kitchener, Regional Municipality of Waterloo, ON" (prepared by HGC Engineering, dated July 24, 2024). For the

retained lands, the agreement shall also specify that an update to the noise study assessing noise impacts associated with King Street West shall be completed prior to site plan approval of any future development on these lands.

15. That prior to final approval the Owner submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a Minor Variance Application and Consent Application to facilitate the construction phasing/financing for the development of the subject lands with a 45 storey multiple residential building on the Severed lands, and a future high rise multiple residential building on the Retained lands.
- The key finding of this report is that the requested variances meet the 4 tests of the Planning Act, and that the requested severance meets the criteria of the Planning Act and Provincial, Regional and City policies.
- There are no financial implications.
- Community engagement included a notice sign being placed on the property advising that a Committee of Adjustment application has been received, notice of the application was mailed to all property owners within 30 metres of the subject property and this report was posted to the City's website with the agenda in advance of the Committee of Adjustment meeting.
- This report supports the delivery of core services.

BACKGROUND:

The subject property is located on the northeast corner of King Street West and Pine Street.

The subject property is identified as a 'Protected Major Transit Station Area' on Map 2 – Urban Structure and is designated 'Strategic Growth Area C' on Map 3 – Land Use in the City's 2014 Official Plan.

The property is zoned "High Rise Growth Zone (SGA-4) (415) (95H)" in Zoning By-law 2019-051.



Figure 1 – Location Map: 864 King Street West

The purpose of the application is to facilitate the construction phasing/financing for the redevelopment of the severed lands with a 45-storey tower. On October 28th, 2024, the Planning and Strategic Initiatives Committee approved Zoning By-law Amendment Application ZBA24/022/K/ES. The proposed development represents ‘Phase 1’ of a multi-phase build-out of the lands. The Retained lands, located on the corner of King and Pine, are for future high-rise redevelopment. Site Plan Application (SP24/069/K/ES) for the 45-storey tower has received ‘Conditional Approval’.

The applicant is proposing to establish reciprocal “blanket” easements over the entirety of the Severed and Retained lands in order to allow for shared services and access. Municipal consent is not required to establish blanket easements, rather it is for specific easements that apply to part of a lot. However, City Legal staff will review the draft easement documents to ensure that adequate provisions have been made for shared services and access.

On February 18, 2025, the Committee of Adjustment approved Minor Variance Application A2025-007 in report DSD-2025-073 to allow for a reduced physical separation of the 7th storey podium to the east property line. No changes to this property line/physical separation regulation are proposed through this application.



Figure 2 – Location Map: View of Site from King Street West (May 6, 2025)



Figure 3 – Location Map: View of Site from Pine Street (May 6, 2025)

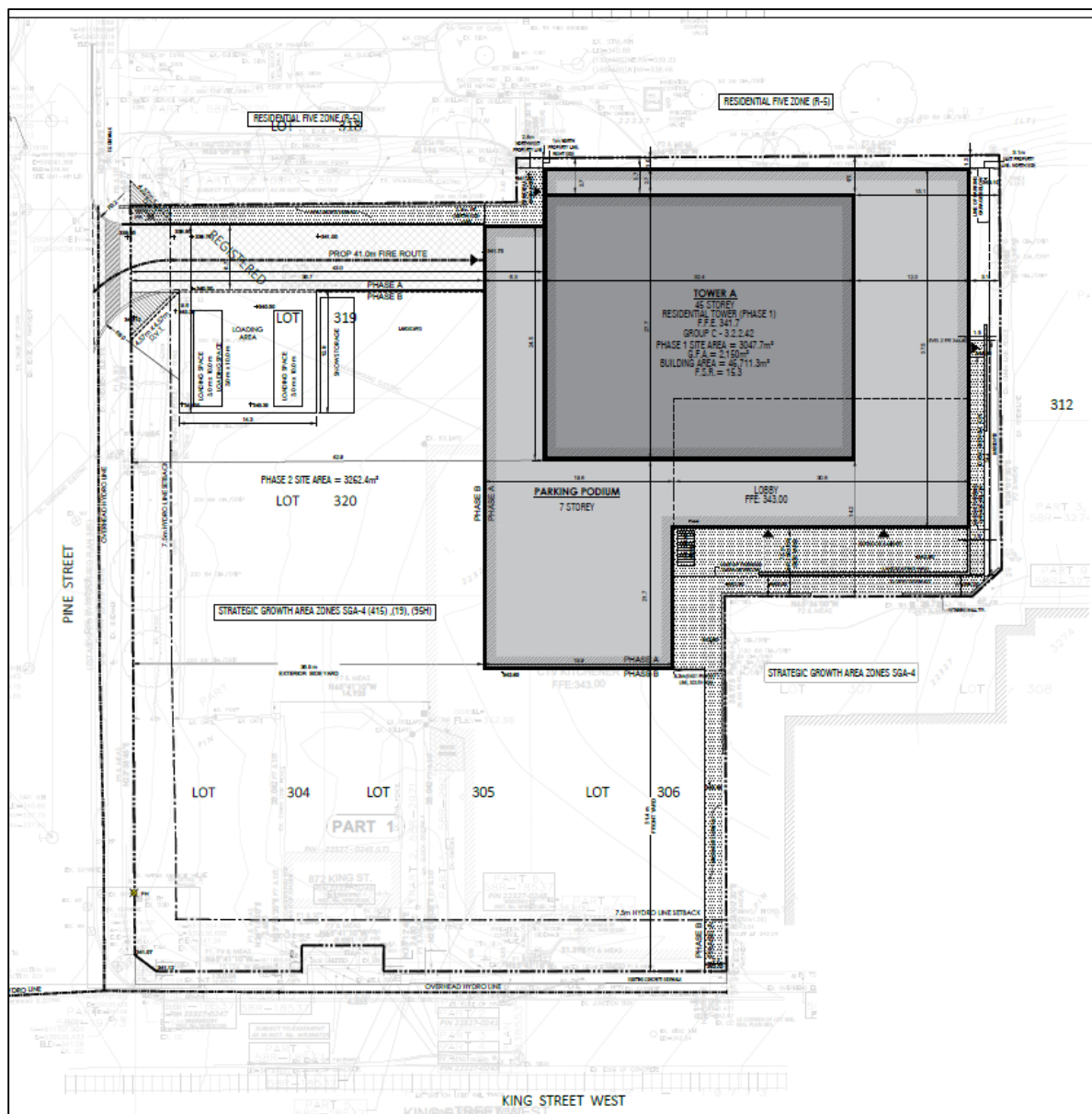


Figure 4 – Site Plan Drawing with Phasing Lines

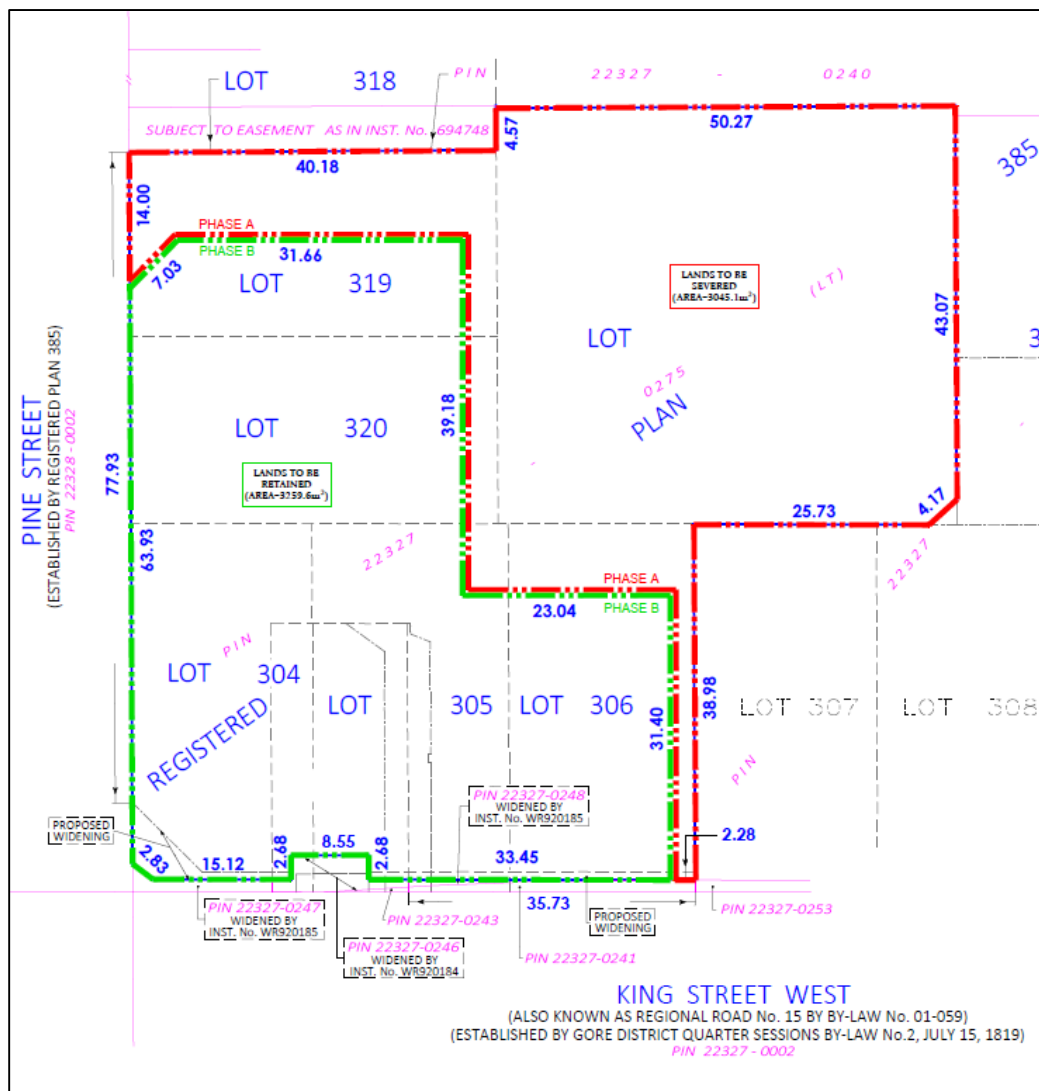


Figure 5 – Severance Sketch

REPORT:

Planning Comments Minor Variance Application A2025-054:

In considering the four tests for the minor variances as outlined in Section 45(1) of the Planning Act, R.S.O, 1990 Chap. P 13, as amended, Planning staff offers the following comments:

General Intent of the Official Plan

The subject property is designated 'Strategic Growth Area C' in the City's 2014 Official Plan. The Strategic Growth Area C land use designation is intended to accommodate significant intensification at high density. The requested variances represent no changes to the physical location of the approved building, rather they enable the construction phasing and financing of the development on the Severed lands and separate the balance of the vacant lands for future development as the Retained lands for future development. Planning Staff is of the opinion that the requested variances meet the general intent of the Official Plan.

General Intent of the Zoning By-law

The subject property is zoned "High Rise Growth Zone (SGA-4) (415) (95H)" in Zoning By-law 2019-051. The purpose of this zone is to create opportunities for high-density growth in both mid and high-rise forms. The general intent of the regulations for minimum lot width, yard setbacks and physical separation is to ensure the lands are functional and that there is adequate separation of buildings to avoid adverse impacts. The requested variances represent no changes to the physical location of the approved building, rather they enable the construction phasing and financing of the development on the Severed lands and separate the balance of the vacant lands for future development as the Retained lands for future development. The requested variances for yard setbacks and physical separation represent relief to the new property line being established in the request for severance. These variances are considered technical as the balance of the lands (retained lands) will be developed as one functional site with the severed lands, and the severance line will exist only for phasing/financing purposes. Planning Staff is of the opinion that the requested variances meet the general intent of the Zoning By-law.

Is/Are the Effects of the Variance(s) Minor?

No changes to the physical location of the building are proposed. Staff do not anticipate any effects or adverse impacts as a result of the requested variances. In the opinion of Planning Staff, the effects of the variances are considered minor.

Is/Are the Variance(s) Desirable For The Appropriate Development or Use of the Land, Building and/or Structure?

The entirety of the subject lands are proposed to be redeveloped with high-rise multiple dwellings, as is permitted in the land use designation and zone. The requested variances will not change the proposed building form or location in any way, and the site will continue to achieve it's planned function. Therefore, Planning Staff are of the opinion that the requested variances are desirable for the appropriate development and use of the lands.

Planning Comments Consent Application B20225-017:

In considering all the relevant Provincial legislation, Regional and City policies and regulations, Planning staff offer the following comments:

Provincial Planning Statement (PPS 2024)

Staff are satisfied that the proposed severance application is consistent with the Provincial Planning Statement in general and as it related to housing policies in Chapter 2 regarding intensification and facilitating housing options. Section 2.2 1 (b) states that Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected needs of current and future residents of the regional market area by permitting and facilitating all housing options required to meet the social, health, economic and well-being requirements of current and future residents.

Regional Official Plan (ROP):

ROP Urban Area policies state that the focus of the Region's future growth shall be within the Urban Area. The subject lands fall within the 'Urban Area' and are designated 'Built-Up Area' in the ROP. The proposed development conforms to Policy 2.D.1 of the ROP as this neighbourhood provides for the physical and community infrastructure required for the proposed residential development, including transportation networks, municipal water and

wastewater systems, and a broad range of social and public health services. Regional policies require municipalities to plan for a range of housing in terms of form, tenure, density, and affordability to satisfy the various physical, social, economic, and personal support needs of current and future residents. Staff are satisfied that the proposed severance applications adhere to these policies and conforms to the ROP.

City's Official Plan (2014)

The subject property is identified as a 'Protected Major Transit Station Area' on Map 2 – Urban Structure and is designated 'Strategic Growth Area C' on Map 3 – Land Use in the City's 2014 Official Plan.

Section 17.E.20.5 of the Official Plan implements Section 51 of the Planning Act and contains policies regarding infill development and lot creation (Consent Policies). These policies state the following:

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

- a) the lots comply with the policies of this Plan, any Community Plan and/or Secondary Plan, and that the lots are in conformity with the Zoning By-law, or a minor variance has been granted to correct any deficiencies;
- b) the lots reflect the general scale and character of the established development pattern of surrounding lands by taking into consideration lot frontages, areas, and configurations;
- c) all of the criteria for plan of subdivision are given due consideration;
- d) the lot will have frontage on a public street;
- e) municipal water services are available;
- f) municipal sanitary services are available except in accordance with Policy 14.C.1.19;
- g) a Plan of Subdivision or Condominium has been deemed not to be necessary for proper and orderly development; and,
- h) the lot(s) will not restrict the ultimate development of adjacent properties.”

The proposed severance requires a Minor Variance Application to correct deficiencies. That analysis is included in the previous section of this report. The lot fabric for the lands fronting King Street West between Pine Street and Andrew Street is irregular and does follow a typical residential pattern with similar sized lots. Lot sizes and shapes vary and there are discrepancies in use and scale of lands as lands are redeveloped for high-rise development within the Protected Major Transit Station Area, Grand River Hospital Station area. Finally, the lots have suitable frontage on a public street, access to full municipal services, do not restrict development of adjacent properties, and do not require a plan of

subdivision. As such, staff are satisfied that the proposed severances conform to the City of Kitchener Official Plan.

Zoning By-law 2019-051

The property is zoned “High Rise Growth Zone (SGA-4) (415) (95H)” in Zoning By-law 2019-051. Requested variances for deficiencies have been addressed previously within this report.

Planning Conclusions/Comments:

With respect to the criteria for the subdivision of land listed in Section 51(24) of the Planning Act, R.S.O. 1990, c.P.13, staff is satisfied that the creation of the severed lot is desirable and appropriate. The uses of both the severed and retained parcels are permitted in the City’s Official Plan and Zoning By-law. The severed lands front onto both a local road (Pine Street) and a regional road (King Street West) which are established public streets and are serviced with municipal services. Staff is further of the opinion that the proposal is consistent with the Region of Waterloo Official Plan, the Provincial Planning Statement, and is good planning and in the public interest.

Environmental Planning Comments:

No Environmental Planning concerns.

Heritage Planning Comments:

No heritage comments or concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance. A Building Permit Application has been made for the apartment building. The Building Division has no objections to the proposed Minor Variance and Consent Applications.

Engineering Division Comments:

Minor Variance

- Engineering has no concerns

Consent

- Kitchener Utilities and Engineering strongly recommends that a Non-Municipal Drinking Water System is not implemented. Further, confirmation that the existing 150 mm watermain on Pine Street is sufficient to provide water demand for all phases of development or if upsizing of the watermain is required.
- The site is eligible for the City’s Central Neighborhood Intensification Funding should servicing upgrades be required along Pine Street.
- Engineering understands that sanitary and storm servicing for the severed parcel will run through the retained parcel. As part of Site Plan Application SP24/069/K/ES. Engineering requires confirmation that private servicing easements for sanitary, storm and stormwater management be provided.
- Engineering requires confirmation that there will be no future cross connection of water servicing between the retained and severed parcels.
- Severance within the subject lands will require separate, individual water service connections in accordance with City policies.

- The owner is required to make satisfactory financial arrangements with the Engineering Division for the installation of new service connections that may be required to service the properties and disconnection / abandonment of existing services that are no longer required.
- Any new driveways are to be built to City of Kitchener standards. All works are at the owner's expense and all work needs to be completed prior to occupancy of the building.
- A servicing plan will be required to the satisfaction of the Engineering Division.
- A Development Asset Drawing (digital AutoCAD) is required for the new municipal infrastructure with corresponding layer names and asset information to the satisfaction of the Engineering Division.
- The owner must ensure that the basement elevation of the buildings can be drained by gravity to the municipal sanitary sewer. If basement finished floor elevations do not allow for gravity drainage to the existing municipal sanitary system, the owner will have to pump the sewage to achieve gravity drainage from the property line to the municipal sanitary sewer in the right of way.

Parks/Operations Division Comments:

Cash-in-lieu of park land dedication for the severed lands will be required through Site Plan Application SP24/069/K/ES. Cash-in-lieu of park land dedication for the Retained lands will be required at time of future Site Plan application.

Transportation Planning Comments:

Transportation Services have no concerns with this application.

Region of Waterloo Comments:

The owner/applicant is seeking consent to sever lands at 864 King Street West to create a new parcel totalling 3,045.1 square metres to facilitate the development of the lands in two phases with a 45-storey residential development inclusive of 304 residential units. The retained parcel is proposed to be 3,259.6 square metres. A blanket easement is also proposed that would apply to both properties for access and servicing. Regional staff provided pre-submission consultation comments on this proposal on March 4, 2025.

Source Water Protection: The property is located within an area subject to Part IV of the Clean Water Act. Regional staff note that the applicant negotiated a provisional Risk Management Plan with the Risk Management Official (rmo@regionofwaterloo.ca) in Fall 2024 applicable to previous Zoning By-law Amendment Application ZBA24/022/K/ES; staff also understand that a final Risk Management Plan is currently being negotiated with the applicant in association with an in-progress site plan application. A valid Section 59 Notice for site plan has not yet been issued.

Notwithstanding the above and consistent with pre-consultation comments, issuance of a valid Notice of Source Protection Plan Compliance (Section 59 Notice) is required for this Consent Application (to be required as a condition) separate from the Risk Management Plan process for site plan. The applicant is asked to contact the Risk Management Official to obtain the Notice for this consent application.

Environmental Noise: The Region is in receipt of a Noise Study related to the proposed development on these lands entitled "Noise Feasibility Study, Proposed Residential

Development, 864-872 King Street West, Kitchener, Regional Municipality of Waterloo, ON" (prepared by HGC Engineering, dated July 24, 2024). Regional staff have reviewed the study in relation to the Regional road noise source (King Street West) and have no concerns with the study or its recommendations (which pertain only to the Retained lands). Regional staff request that the Owner/Developer enter into a registered agreement with the Region to implement the study's recommendations. Specifically, the following will be required for inclusion in the agreement:

- The provision of central air conditioning for all units.
- Noise warning clauses included in any agreements of Offers of Purchase and Sale, lease/rental agreements and condominium declarations:

East, west, and south facades:

Type B:

Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road traffic (King Street West) may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks.

Type C:

This dwelling unit has been designed with the provision for 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 Municipality and the Ministry of the Environment, Conservation and Parks.

Regional staff also note that an update to the Noise Study will be required in association with a future Planning Act Application pertaining to the proposed Phase 2 of the development (to be located on the Severed lands).

Environmental Threats: For the City's awareness, the Regional Threats Inventory Database identifies "high" threats identified in the Regional Threats Inventory Database for the subject lands (associated with past operations of Electrohome Ltd. and CTV Television Inc.), as well as records of an historical landfill on and adjacent to the subject lands. This information was also provided to the applicant in Regional comments associated with ZBA24/022/K/ES on September 13, 2024.

Regional Consent Review Fee: Regional staff have not received the fee for consent application review of \$350 as per Regional By-law 24-052. The fee payment is requested as a condition of consent approval.

Regional staff have no objection to Consent File B2025-016 subject to the following conditions:

1. That the Owner/Developer provide a valid Notice of Source Protection Plan Compliance (Section 59 Notice) to the satisfaction of the Regional Municipality of Waterloo.
2. That for the retained lands, the Owner/Developer enter into a registered development agreement with the Regional Municipality of Waterloo to implement the environmental noise recommendations specific to noise impacts from King Street West (Regional Road No. 8) identified in the noise study report entitled “Noise Feasibility Study, Proposed Residential Development, 864-872 King Street West, Kitchener, Regional Municipality of Waterloo, ON” (prepared by HGC Engineering, dated July 24, 2024). For the severed lands, the agreement shall also specify that an update to the noise study assessing noise impacts associated with King Street West shall be completed prior to site plan approval of any future development on these lands.
3. That the Owner/Developer submit the Consent Review Fee of \$350 to the Regional Municipality of Waterloo.

STRATEGIC PLAN ALIGNMENT:

This report supports the delivery of core services.

FINANCIAL IMPLICATIONS:

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

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

COMMUNITY ENGAGEMENT:

INFORM – This report has been posted to the City’s website with the agenda in advance of the Committee of Adjustment meeting. A notice sign was placed on the property advising that a Committee of Adjustment application has been received. The sign advises interested parties to find additional information on the City’s website or by emailing the Planning Division. A notice of the application was mailed to all property owners within 30 metres of the subject property.

PREVIOUS REPORTS/AUTHORITIES:

- *Planning Act*
- *Provincial Planning Statement (PPS 2024)*
- *Regional Official Plan (ROP)*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*
- *DSD-2025-073*

ATTACHMENTS:

Attachment A – Severance Sketch

Attachment B – Site Plan Drawing showing Phasing Lines