

# Staff Report



Development Services Department

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**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** August 16, 2022

**SUBMITTED BY:** Tina Malone-Wright, Supervisor, Development Applications  
519-741-2200 ext. 7765

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

**WARD(S) INVOLVED:** Ward 9

**DATE OF REPORT:** August 5, 2022

**REPORT NO.:** DSD-2022-387

**SUBJECT:** Consent Applications B2022-036 to B2022-038  
9 Pleasant Avenue  
Owner: DSQ Corporation  
Applicant: K. M. Berbash

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## RECOMMENDATION:

### Consent Application B2022-036

That Consent Application B2022-036 requesting consent to sever a parcel of land having a lot width of 15.2 metres, a lot depth of 44.3 metres and a lot area of 463.1 square metres, BE APPROVED, subject to the following conditions:

1. 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.
2. 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.
3. 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.
4. That the Owner obtains Demolition Control approval, in accordance with the City's Demolition Control By-law, to the satisfaction of the Manager of Development Review.
5. That the Owner obtains a Demolition Permit, for the existing single detached dwelling proposed to be demolished, to the satisfaction of the Chief Building Official, and removes the existing dwelling prior to deed endorsement.

6. That the Owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services Division.
7. A Development Asset Drawing (digital AutoCAD) is required for the site (servicing, SWM etc.) with corresponding layer names and asset information to the satisfaction of the City's Engineering Services Division prior to deed endorsement.
8. 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.
9. 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 Engineering Services Division.
10. That the Owner provides 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 extend the storm sewer or implement a suitable design solution for a sump pump outlet to the satisfaction of the Director of Engineering.
12. That the owner pay to the City of Kitchener a cash-in-lieu contribution of \$7,448.00 for park dedication equal to the value of the lands to be severed.
13. 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 Supervisor, Site Plans, and where necessary, implemented prior to any grading, tree removal or the issuance of demolition and building permits. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation 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 Supervisor, Site Plans.
  - c) The owner shall maintain the severed and retained lands, in accordance with the approved Tree Protection and Enhancement Plan, for the life of the development.
14. That the Owner shall fulfil one of the following three requirements to ensure that any City-owned tree will not be impacted by the proposed development:
  - a) 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:

- i) That the owner shall prepare a Tree Protection and Enhancement Plan, demonstrating protection of the City-owned tree that is located adjacent to the severed and retained lands, to the satisfaction of the City's Director Parks & Cemeteries. Said plan shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation to be preserved. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks & Cemeteries.
    - ii) The owner shall implement the Tree Protection and Enhancement Plan, prior to any grading, servicing, tree removal or the issuance of building permits, to the satisfaction of the City's Director Parks & Cemeteries.
    - iii) The owner shall maintain the severed and retained lands, in accordance with the approved Tree Protection and Enhancement Plan, for the life of the development. OR
  - b) 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:
    - i) That the owner shall prepare a Street Tree Planting Plan that shows the replacement of the City-owned tree to be removed (located adjacent to the severed and retained lands) with 2 suitable trees, in accordance with the City of Kitchener Development Manual Standards, to the satisfaction of the City's Director Parks & Cemeteries. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks & Cemeteries.
    - ii) The owner shall implement the approved Street Tree Planting Plan, to the satisfaction of the City's Director Parks & Cemeteries. OR
  - c) Make arrangements regarding financial compensation for the tree to be removed, to the satisfaction of the City's Director of Parks & Cemeteries.
15. That prior to final approval, the owner/applicant must submit a valid Section 59 Notice to the satisfaction of the Region of Waterloo.
16. That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00.
17. That prior to final approval, an agreement between the owner/applicant and the City of Kitchener, to the satisfaction of the Region of Waterloo, must be registered on title for both the retained and severed lands that includes the requirement for the following noise mitigation and warning clauses in all agreements of Offers of Purchase and Sale, lease/rental agreements:

**Dwellings on ALL Lots:**

- a) The dwelling units must be installed with an air-ducted heating and ventilation system suitably sized and designed with the provision of adding central air conditioning.
- b) The following noise warning clauses will be included in all offers of purchase and sale, deeds and lease/rental agreements:

- i) **Type C - “The purchasers/tenants are advised that sound levels due to increasing road traffic on the municipal street system in the vicinity may interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation and Parks (MECP). In addition, 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 Region of Waterloo and the MECP.”**
- ii) **Type B and Stationary Noise – “Purchasers/tenants are advised that despite the inclusion of noise attenuation control features in the development and within the building units, sound levels due to increasing road traffic on the municipal street system, and stationary noise from the existing land uses in the vicinity, may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation and Parks (MECP).”**

**Consent Application B2022-037**

That Consent Application B2022-037 requesting consent to sever a parcel of land having a lot width of 8.5 metres, a lot depth of 39.5 metres and a lot area of 313.1 square metres, BE APPROVED, subject to the following conditions:

1. 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.
2. 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.
3. 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.
4. That the Owner obtains Demolition Control approval, in accordance with the City’s Demolition Control By-law, to the satisfaction of the Manager of Development Review.
5. That the Owner obtains a Demolition Permit, for the existing single detached dwelling proposed to be demolished, to the satisfaction of the Chief Building Official, and removes the existing dwelling prior to deed endorsement.
6. That the Owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services Division.
7. A Development Asset Drawing (digital AutoCAD) is required for the site (servicing,

**SWM etc.) with corresponding layer names and asset information to the satisfaction of the City's Engineering Services Division prior to deed endorsement.**

- 8. 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.**
- 9. 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 Engineering Services Division.**
- 10. That the Owner provides 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 extend the storm sewer or implement a suitable design solution for a sump pump outlet to the satisfaction of the Director of Engineering.**
- 12. That the owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication equal to \$4,165.00 of the value of the lands to be severed.**
- 13. 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 Supervisor, Site Plans, and where necessary, implemented prior to any grading, tree removal or the issuance of demolition and building permits. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation 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 Supervisor, Site Plans.**
  - c) The owner shall maintain the severed and retained lands, in accordance with the approved Tree Protection and Enhancement Plan, for the life of the development.**
- 14. That the Owner shall fulfil one of the following three requirements to ensure that any City-owned tree will not be impacted by the proposed development:**
  - a) 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:**
    - i) That the owner shall prepare a Tree Protection and Enhancement Plan, demonstrating protection of the City-owned tree that is located adjacent to the severed and retained lands, to the satisfaction of the City's Director Parks & Cemeteries. Said plan shall include, among other matters, the identification of**

a proposed building envelope/work zone, landscaped area and vegetation to be preserved. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks & Cemeteries.

- ii) The owner shall implement the Tree Protection and Enhancement Plan, prior to any grading, servicing, tree removal or the issuance of building permits, to the satisfaction of the City's Director Parks & Cemeteries.
  - iii) The owner shall maintain the severed and retained lands, in accordance with the approved Tree Protection and Enhancement Plan, for the life of the development. OR
- b) 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:
- i) That the owner shall prepare a Street Tree Planting Plan that shows the replacement of the City-owned tree to be removed (located adjacent to the severed and retained lands) with 2 suitable trees, in accordance with the City of Kitchener Development Manual Standards, to the satisfaction of the City's Director Parks & Cemeteries. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks & Cemeteries.
  - ii) The owner shall implement the approved Street Tree Planting Plan, to the satisfaction of the City's Director Parks & Cemeteries. OR
- c) Make arrangements regarding financial compensation for the tree to be removed, to the satisfaction of the City's Director of Parks & Cemeteries.

15. That prior to final approval, the owner/applicant must submit a valid Section 59 Notice to the satisfaction of the Region of Waterloo.

16. That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00.

17. That prior to final approval, an agreement between the owner/applicant and the City of Kitchener, to the satisfaction of the Region of Waterloo, must be registered on title for both the retained and severed lands that includes the requirement for the following noise mitigation and warning clauses in all agreements of Offers of Purchase and Sale, lease/rental agreements:

**Dwellings on ALL Lots:**

- a) The dwelling units must be installed with an air-ducted heating and ventilation system suitably sized and designed with the provision of adding central air conditioning.
- b) The following noise warning clauses will be included in all offers of purchase and sale, deeds and lease/rental agreements:
  - i) Type C - *"The purchasers/tenants are advised that sound levels due to increasing road traffic on the municipal street system in the vicinity may interfere with some activities of the dwelling occupants as the sound levels*

*exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation and Parks (MECP). In addition, 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 Region of Waterloo and the MECP."*

- ii) *Type B and Stationary Noise – "Purchasers/tenants are advised that despite the inclusion of noise attenuation control features in the development and within the building units, sound levels due to increasing road traffic on the municipal street system, and stationary noise from the existing land uses in the vicinity, may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation and Parks (MECP)."*

**Consent Application B2022-038**

That Consent Application B2022-038 requesting consent to sever a parcel of land having a lot width of 10.8 metres, a lot depth of 33.5 metres and a lot area of 365.2 square metres, BE APPROVED, subject to the following conditions:

1. 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.
2. 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.
3. 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.
4. That the Owner obtains Demolition Control approval, in accordance with the City's Demolition Control By-law, to the satisfaction of the Manager of Development Review.
5. That the Owner obtains a Demolition Permit, for the existing single detached dwelling proposed to be demolished, to the satisfaction of the Chief Building Official, and removes the existing dwelling prior to deed endorsement.
6. That the Owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services Division.
7. A Development Asset Drawing (digital AutoCAD) is required for the site (servicing, SWM etc.) with corresponding layer names and asset information to the satisfaction of the City's Engineering Services Division prior to deed endorsement.
8. 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.

9. 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 Engineering Services Division.
10. That the Owner provides 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 extend the storm sewer or implement a suitable design solution for a sump pump outlet to the satisfaction of the Director of Engineering.
12. That the owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication equal to \$5,360.60 of the value of the lands to be severed.
13. 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 Supervisor, Site Plans, and where necessary, implemented prior to any grading, tree removal or the issuance of demolition and building permits. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation 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 Supervisor, Site Plans.
  - c) The owner shall maintain the severed and retained lands, in accordance with the approved Tree Protection and Enhancement Plan, for the life of the development.
14. That the Owner shall fulfil one of the following three requirements to ensure that any City-owned tree will not be impacted by the proposed development:
  - a) 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:
    - i) That the owner shall prepare a Tree Protection and Enhancement Plan, demonstrating protection of the City-owned tree that is located adjacent to the severed and retained lands, to the satisfaction of the City's Director Parks & Cemeteries. Said plan shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation to be preserved. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks & Cemeteries.



- ii) The owner shall implement the Tree Protection and Enhancement Plan, prior to any grading, servicing, tree removal or the issuance of building permits, to the satisfaction of the City's Director Parks & Cemeteries.
    - iii) The owner shall maintain the severed and retained lands, in accordance with the approved Tree Protection and Enhancement Plan, for the life of the development. OR
  - b) 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:
    - i) That the owner shall prepare a Street Tree Planting Plan that shows the replacement of the City-owned tree to be removed (located adjacent to the severed and retained lands) with 2 suitable trees, in accordance with the City of Kitchener Development Manual Standards, to the satisfaction of the City's Director Parks & Cemeteries. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks & Cemeteries.
    - ii) The owner shall implement the approved Street Tree Planting Plan, to the satisfaction of the City's Director Parks & Cemeteries. OR
  - c) Make arrangements regarding financial compensation for the tree to be removed, to the satisfaction of the City's Director of Parks & Cemeteries.
15. That prior to final approval, the owner/applicant must submit a valid Section 59 Notice to the satisfaction of the Region of Waterloo.
16. That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00.
17. That prior to final approval, an agreement between the owner/applicant and the City of Kitchener, to the satisfaction of the Region of Waterloo, must be registered on title for both the retained and severed lands that includes the requirement for the following noise mitigation and warning clauses in all agreements of Offers of Purchase and Sale, lease/rental agreements:

**Dwellings on ALL Lots:**

- a) The dwelling units must be installed with an air-ducted heating and ventilation system suitably sized and designed with the provision of adding central air conditioning.
- b) The following noise warning clauses will be included in all offers of purchase and sale, deeds and lease/rental agreements:
  - i) Type C - *"The purchasers/tenants are advised that sound levels due to increasing road traffic on the municipal street system in the vicinity may interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation and Parks (MECP). In addition, 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 Region of Waterloo and the MECP."***

- ii) ***Type B and Stationary Noise – "Purchasers/tenants are advised that despite the inclusion of noise attenuation control features in the development and within the building units, sound levels due to increasing road traffic on the municipal street system, and stationary noise from the existing land uses in the vicinity, may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation and Parks (MECP)."***

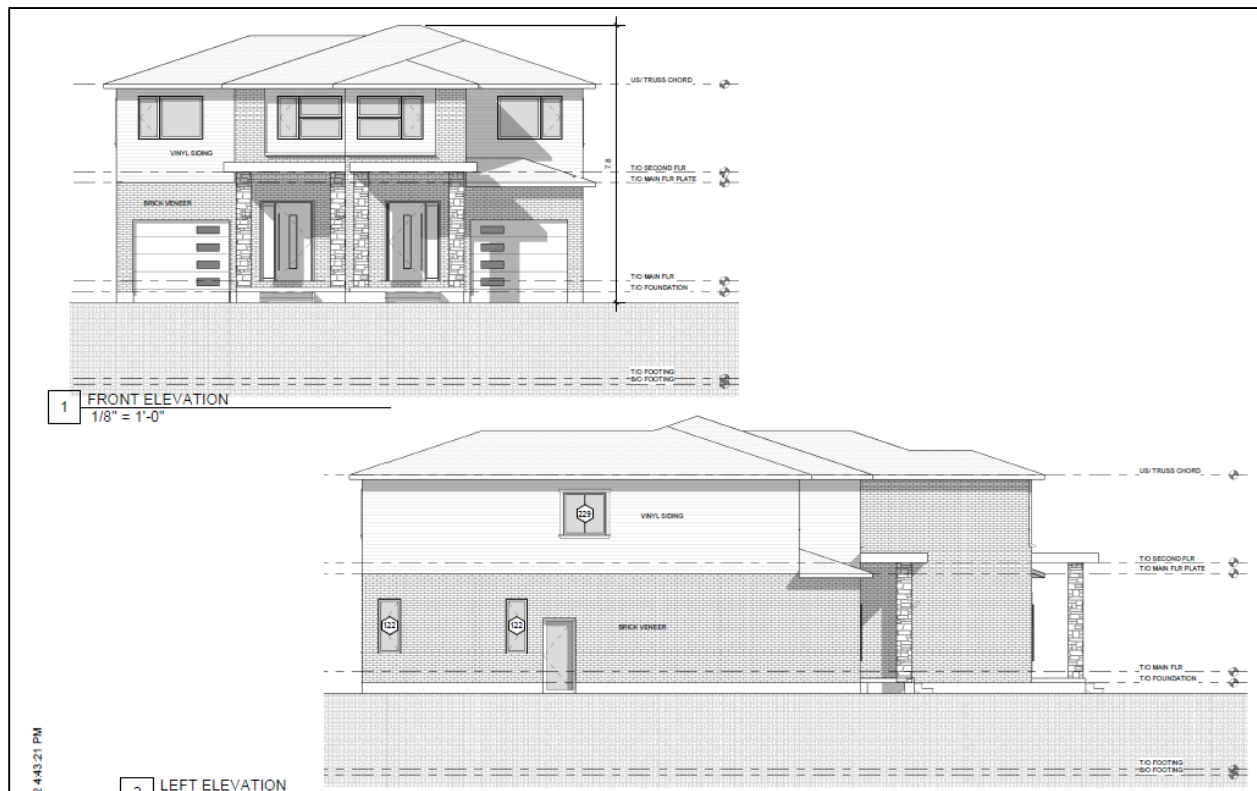
**REPORT HIGHLIGHTS:**

- The applicant is requesting to create three new lots and retain one lot to be used for future residential dwellings.
- This matter was deferred from the June 21, 2022 Committee meeting in order to receive building elevation drawings
- There are no financial implications.
- This report supports the delivery of core services.

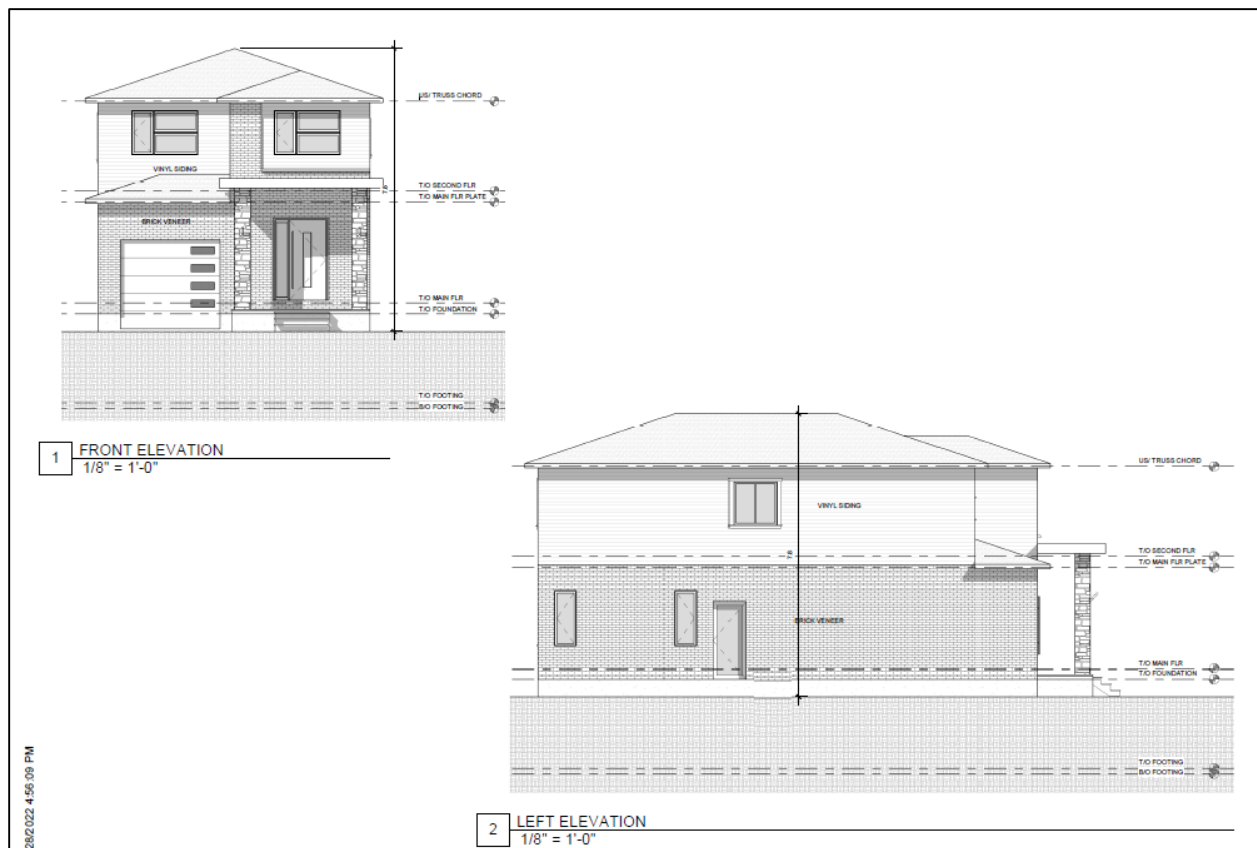
**BACKGROUND:**

The subject property is located at 9 Pleasant Avenue nearest the intersection of Queens Boulevard and Pleasant Avenue. The property is irregular in shape measuring approximately 45 metres wide by an average depth of 36 metres for a total area of approximately 1600 square metres. The existing surrounding development of the neighbourhood consists of a mix of single detached dwellings, semi-detached dwellings, multiple dwellings and a hospital. Lot sizes vary in width, depth, and area in this neighborhood.

At the June 21, 2022 meeting, the Committee deferred these consent applications to the August meeting pending receipt of building elevation drawings. The applicant has prepared building elevation drawings and these are attached for Committee's consideration. These drawings have been assessed by staff. Staff is of the opinion the proposed semi-detached and duplex dwellings will be compatible with the neighbourhood.



Building Elevations – Semi-detached Dwelling



Building Elevations – Detached Dwelling



City Planning staff conducted a site inspection of the property on June 3, 2022.



**Location Map: 9 Pleasant Ave.**



**Existing detached dwelling at 9 Pleasant Ave.**

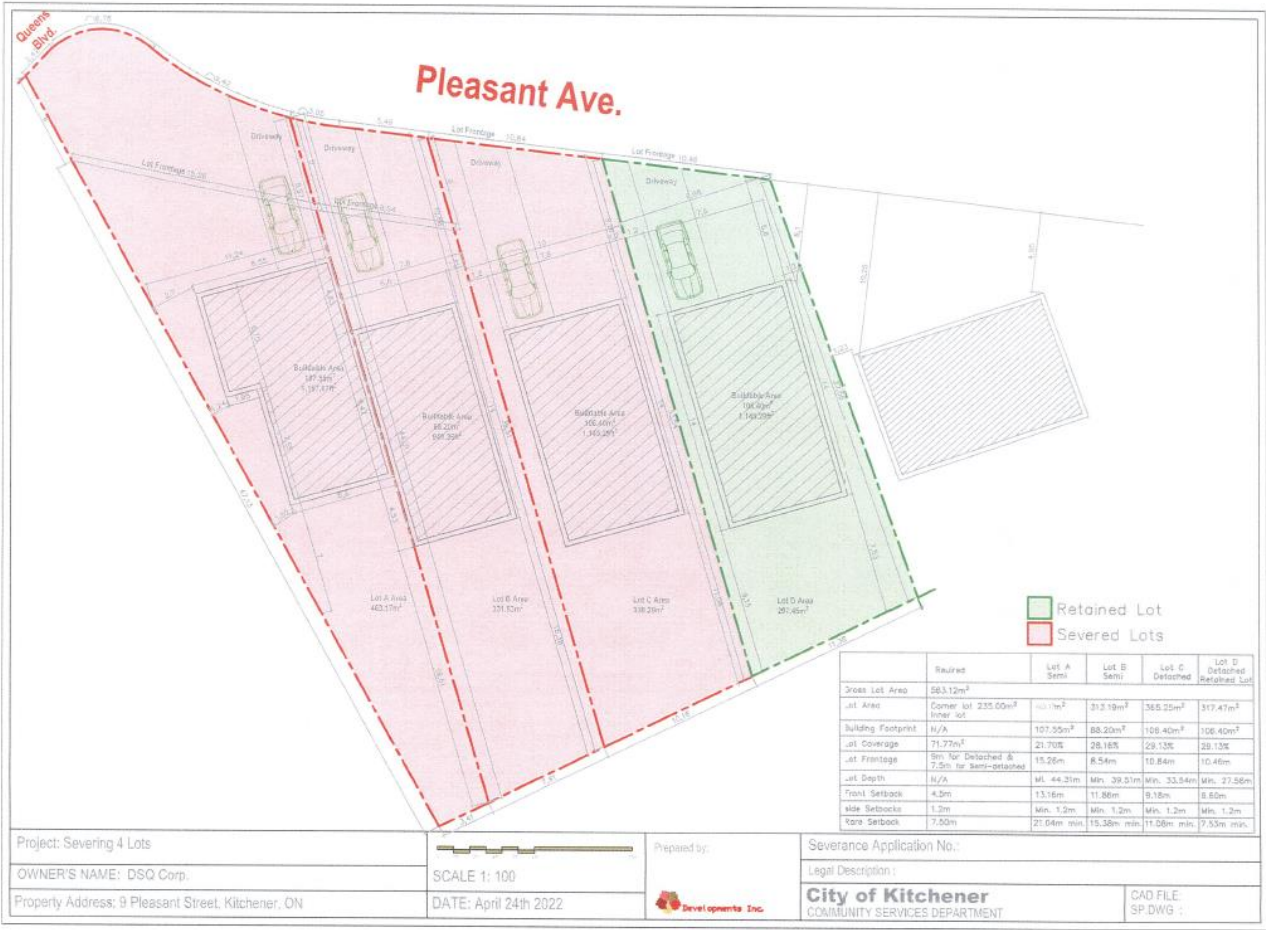
The subject property is identified as 'Community Area' on Map 2 – Urban Structure and is designated 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan.



The property is zoned 'Residential Five Zone (R-5)' in Zoning By-law 85-1 and 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051, which is currently under appeal.

The applicant has requested consent to create three new lots one and retain lot for a total of four parcels. To facilitate redevelopment of the subject lands the applicant is proposing to demolish the existing single detached dwelling on the property and replace it with a semi-detached dwelling and two detached dwellings, as shown below.

The first severed lot will have a lot width of 15.2 metres, a lot depth of 44.3 metres and a lot area of 463.1 square metres. The second severed lot will have a lot width of 8.5 metres, a lot depth of 39.5 metres and a lot area of 313.1 square metres. The third severed lot will have a lot width of 10.8 metres, a lot depth of 33.5 metres and a lot area of 365.2 square metres. The lands to be retained will have a lot width of 10.4 metres, a lot depth of 27.5 metres and a lot area of 317.4 square metres.



Proposed Lotting Fabric

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

#### Provincial Policy Statement, 2020:

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. Section 1.4.3(b) of the PPS promotes all types of residential intensification, and sets out a policy framework for sustainable healthy, liveable and safe communities. The PPS promotes efficient development and land use patterns, as well as accommodating an appropriate mix of affordable and market-based residential dwelling types with other land uses, while supporting the environment, public health and safety. Provincial policies promote the integration of land use planning, growth management, transit-supportive development, intensification, and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs.

Planning staff is of the opinion that the proposed application will facilitate a form of gentle intensification of the subject property with the creations of lots and future single detached dwellings that are compatible with the surrounding community and will make use of the existing infrastructure. No new public roads would be required for the proposed development. Planning staff is of the opinion that this proposal is consistent with the PPS.

#### A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (Growth Plan):

The Growth Plan supports the development of complete and compact communities that are designed to support healthy and active living, make efficient use of land and infrastructure, provide for a range and mix of housing types, jobs, and services, at densities and in locations which support transit viability and active transportation. The subject lands are within proximity to transit and the subject lands are in proximity to trails and parks.

Policy 2.2.6.1(a) Municipalities will support housing choice through the achievement of the minimum intensification and targets in this plan by identifying a diverse range and mix of housing options and densities, including additional residential units and affordable housing to meet projected needs of current and future residents.

The subject lands are located within the City's delineated built up area. The proposed development represents intensification and will contribute towards achieving the City's intensification density targets. The severance application will help make efficient use of existing infrastructure, parks, roads, trails and transit. Planning staff is of the opinion that the development proposal conforms to the Growth Plan.

#### Regional Official Plan (ROP):

Urban Area policies of the ROP identify that the focus of the Region's future growth will be within the Urban Area. The subject lands are designated Built-Up Area in the ROP. The proposed development conforms to Policy 2.D.1 of the ROP as this neighbourhood provides for the physical infrastructure and community infrastructure to support the proposed residential development, including transportation networks, municipal drinking-water supply and wastewater systems, and a broad range of social and public health services. Regional policies require Area Municipalities to plan for a range of housing in terms of form, tenure, density and affordability to satisfy the various physical, social, economic and personal support needs of current and future residents. Planning staff are of the opinion that the severance application conforms to the Regional Official Plan.

#### Official Plan

The subject lands are designated 'Low Rise Residential' (Map 3) in the 2014 Official Plan. The Low Rise Residential land use designation permits a full range of low density housing types which may include single detached dwellings, semi-detached dwellings, street townhouse dwellings, and low-rise multiple dwellings. The Low Rise Residential land use designation encourages mixing and integrating different forms of housing to achieve and maintain a low-rise built form. The maximum net residential density for lands which are designated Low Rise Residential will be 30 units per hectare.

The proposed severance is in accordance with this aspect of the plan and maintains the residential land use designation.

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

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

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

The proposed lot widths and lot areas of the proposed severed and retained lots exceed the minimum ‘R-5’ zone lot width and lot area requirements and the minimum ‘RES-4’ lot width and lot area requirements in Zoning By-law 2019-051 and minor variances are not required. Planning staff is of the opinion that the size, dimension and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding neighbourhood which is developed with single detached, semi detached and multiple dwellings with lots sizes that vary in width, depth, and area. The lands front onto a public street and full services are available. This is further demonstrated with the submission of the elevation drawings which demonstrate that the proposed built form and design will be compatible with the existing neighbourhood. There are no natural heritage features that would be impacted by the proposed consent application. Planning staff is of the opinion that the proposed severance conforms with the City of Kitchener Official Plan.

#### Zoning By-law

The subject property is zoned as ‘Residential Five Zone (R-5)’ in Zoning By-law 85-1 and ‘Low Rise Residential Four Zone (RES-4)’ in Zoning By-law 2019-051. Both the ‘R-5’ and ‘RES-4’ zones permit a range of low density dwelling types such as single, duplexes and semi-detached dwellings. The ‘R-5’ Zone requires a minimum lot width of 9.0 metres and minimum lot area of 235 square metres for single and duplexed detached dwellings while semi-detached and duplexed semi-detached are 7.5 metres wide and 235 square metres of lot area. The ‘RES-4’ Zone requires a minimum lot width of 9.0 metres and minimum lot area of 235 square metres for single and duplexed detached dwellings while semi-detached and duplexed semi-detached are 7.5 metres wide and 210 square metres of lot area and 12.0 metres and 210 square metres for a corner lot. The proposed lot widths and lot

areas of the proposed severed and retained lots exceed the minimum 'R-5' and 'RES-4' zone lot width and lot area requirements. The lots will be of sufficient size to accommodate a dwelling that will be compatible with the existing neighbourhood.

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 in conformity with the City's Official Plan and Zoning By-law. Planning staff is of the opinion that the size, dimension and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding community. There are existing schools within the neighbourhood. Staff is further of the opinion that the proposal is consistent with the Region of Waterloo Official Plan, the Provincial Policy Statement, conforms to the Growth Plan for the Greater Golden Horseshoe and is good planning and in the public interest.

**Building Comments:**

The Building Division has no objections to the proposed consent. Region of Waterloo and Area Municipalities' Design Guidelines and Supplemental Specifications for Municipal Services (DGSSMS) allows only one service per lot. Separate building permit(s) will be required for the demolition of the existing building, as well as construction of the new residential buildings.

**Heritage Comments:**

There are no heritage planning concerns associated with this application.

**Environmental Planning Comments:**

Standard condition on both the severed and retained lands to enter into an agreement to complete tree preservation / enhancement plan prior to demolition permit issuance.

**Transportation Services Comments:**

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

**Engineering Comments:**

- Severance of any blocks within the subject lands will require separate, individual service connections for sanitary, storm, and water, in accordance with City policies.
- The owner is required to make satisfactory financial arrangements with the Engineering Division for the installation of new service connections that may be required to service this property, all prior to severance approval. Our records indicate sanitary and water municipal services are currently available to service this property. Any further enquiries in this regard should be directed to Niall Melanson ([niall.melanson@kitchener.ca](mailto:niall.melanson@kitchener.ca)).
- Any new driveways are to be built to City of Kitchener standards. All works are at the owner's expense and all work needs to be completed prior to occupancy of the building.
- A servicing plan showing outlets to the municipal servicing system will be required to the satisfaction of the Engineering Division prior to severance approval.
- A Development Asset Drawing (digital AutoCAD) is required for the new site infrastructure with corresponding layer names and asset information to the satisfaction of the Engineering Division prior to severance approval.
- The owner must ensure that the basement elevation of the building can be drained by gravity to the 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.
- The Owner shall extend the storm sewer or implement a suitable design solution for a sump pump outlet to the satisfaction of the Director of Engineering.

**Parks/Operations Comments:**

Cash-in-lieu of park land dedication will be required on the severed parcels as 3 new development lots will be created. The cash-in-lieu dedication required totals **\$16,973.60**. Park Dedication is



calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of 34.64m at a land value of \$9,200 per frontage meter.

Three City-owned trees (tree ID # 10021264,10021772,10021251) will be impacted by the proposed development and the owner shall fulfill one of the following three requirements:

1. 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 Protection and Enhancement Plan, demonstrating protection of the City-owned tree that is located adjacent to the severed and retained lands, to the satisfaction of the City's Director Parks & Cemeteries. Said plan shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation to be preserved. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks & Cemeteries.
  - b) The owner shall implement the Tree Protection and Enhancement Plan, prior to any grading, servicing, tree removal or the issuance of building permits, to the satisfaction of the City's Director Parks & Cemeteries.
  - c) The owner shall maintain the severed and retained lands, in accordance with the approved Tree Protection and Enhancement Plan, for the life the development.

OR

2. 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 Street Tree Planting Plan that shows the replacement of the City-owned tree to be removed (located adjacent to the severed and retained lands) with 2 suitable trees, in accordance with the City of Kitchener Development Manual Standards, to the satisfaction of the City's Director Parks & Cemeteries. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks & Cemeteries.
  - b) The owner shall implement the approved Street Tree Planting Plan, to the satisfaction of the City's Director Parks & Cemeteries.

OR

3. Make arrangements regarding financial compensation for the tree to be removed, to the satisfaction of the City's Director of Parks & Cemeteries.

**Regional Comments:**

**Regional Fee:**

The owner/applicant is required to submit the Regional consent review fee of \$350.00 per consent application (\$350.00 x 3 applications = \$1,050.00) prior to final approval of the consent.

**Notice of Source Protection Plan Compliance (Section 59 Notice):**

The subject lands are located in a Source Protection Area where Grand River Source Protection Plan policies implemented by the Region of Waterloo may apply. Per s.59 of the *Clean Water Act, 2006* a Notice of Source Protection Plan Compliance is required as part of a complete application submission.

To apply for a Notice of Source Protection Plan Compliance (Section 59 Notice) the owner/applicant must complete the questionnaire at <https://taps.regionofwaterloo.ca/> listing all applicable activities prescribed under the Clean Water Act related to the application. A Notice will only be considered valid if the following criteria are met;

- Applicant has signed the Notice;
- Address and application type on the Notice match the rest of the application; and
- All activities related to the proposed application are listed in Schedule 1.

Invalid Notices will not be accepted and may result in delayed approvals.

**Environmental Noise:**

Regional Staff note that the subject lands are in close proximity to Queens Boulevard and St. Mary's Hospital and the proposed dwellings in the retained and severed lots will likely have impacts from transportation and stationary noise sources. It is the responsibility of the applicant to ensure the proposed development is not adversely affected by anticipated transportation (traffic) and stationary (hospital) noise impacts.

Regional Official Plan (ROP) Policy 2.G.10 addresses potential land use compatibility issues due to the encroachment of sensitive land uses and potentially incompatible uses on one another. Moreover, ROP Policy 2.G.13 indicates that a noise study may be required for a development application for a sensitive land use submitted in the vicinity of an Existing or Planned Regional Road, Provincial Highway, the rapid transit system, transit terminals, railways or Area Municipal roads. In order for this consent application to conform to ROP policy 2.G.10 and 2.G.13, land use compatibility must be addressed.

In lieu of requiring a detailed transportation and stationary noise study, and because the transportation noise source is a City of Kitchener municipal road, Regional staff require that the owner/applicant of the units on all (retained and severed) lots will be required to enter into a registered agreement with the City of Kitchener to include the following noise mitigation and warning clauses in all Offers of Purchase and Sale, lease/rental agreements:

Dwellings on ALL Lots:

- a) The dwelling units must be installed with an air-ducted heating and ventilation system suitably sized and designed with the provision of adding central air conditioning.
- b) The following noise warning clauses will be included in all offers of purchase and sale, deeds and lease/rental agreements:
  - i. Type C - *"The purchasers/tenants are advised that sound levels due to increasing road traffic on the municipal street system in the vicinity may interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation and Parks (MECP). In addition, 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 Region of Waterloo and the MECP."*
  - ii. Type B and Stationary Noise – *"Purchasers/tenants are advised that despite the inclusion of noise attenuation control features in the development and within the building units, sound levels due to increasing road traffic on the municipal street system, and stationary noise from the existing land uses in the vicinity, may on*

*occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation and Parks (MECP)."*

**Bell Comments:**

Subsequent to review of the Severance Application by our local Engineering Department, it has been identified that Bell Canada will require a transfer of easement over these lands to protect existing aerial facilities, supply service to the properties, and to maintain service in the area. According to our records, Bell's aerial cable runs along the northeast and southeast property boundaries as identified in the sketch provided. Bell Canada would like to confirm that a blanket easement over the lands or a 3.0m wide corridor to be measured 1.5m on either side of the aerial cable, then to extend from the pole to a minimum of 1.0m past any anchor installation to be measured 0.5m on either side of the guy, as can be accommodated, would satisfy our needs. Since the easement is necessary in order to provide and maintain service to this area, all costs associated with this transaction are the responsibility of the landowner. Compensation should be set to the nominal amount of \$2.00 for the acquisition of these rights. Additionally, Bell Canada requires separate, registered postponements for any mortgages and certification of title.

We hope this proposal meets with your approval and request a copy of the Committee of Adjustments decision.

We look forward to the owners' Solicitor contacting us with a draft reference plan and accompanying draft easement and LTTS documents for our approval prior to registration, along with an acknowledgement and direction for our execution.

**Planning Response:**

Planning staff received comments from Bell Canada in regards to the proposed severances. These comments were not received in advance of the Committee's consideration of these Consent applications at the June 21<sup>st</sup> 2022 meeting. Bell has requested easements in favour of their utilities in the area.

As per the Planning Act, Bell Canada does not have the authority to request an interest in lands for greater than 21 years. Staff is of the opinion that the request for an easement is not within the scope of the application and will not be included as a condition of approval in staff's recommendation.

**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 – These applications were previously discussed at the June 21, 2022 Committee meeting where they were deferred to the August meeting. As such, this report has been posted to the City's website with the agenda in advance of the Committee of Adjustment meeting.

**PREVIOUS REPORTS/AUTHORITIES:**

- *Planning Act*

- *Provincial Policy Statement (PPS 2014)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan (ROP)*
- *Official Plan (2014)*
- *Zoning By-laws 85-1 and 2019-051*
- *DSD-2022-031*