

# 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:** Tim Seyler, Planner, 519-741-2200 ext. 7860

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

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

**REPORT NO.:** DSD-2022-395

**SUBJECT:** Consent Application B2022-042 - 59 Bruce Street  
Owners: Nedeljko and Sandra Mitrovic,  
Igor Cekrlja and Snjezana Cekrlja  
Agent: Nikola Karanovic

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## RECOMMENDATION:

That Consent Application B2022-042 requesting consent to sever a parcel of land having a lot width of 7.62 metres, a lot depth of 38.1 metres and a lot area of 290.33 square metres, BE APPROVED subject to the following conditions:

1. That the property owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
2. That the property owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.
3. That the property owner provides a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full size paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
4. That the property owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
5. That the property 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.

6. That the property owner makes financial arrangements for the installation of any new service connections to the severed and/or retained lands to the satisfaction of the City's Director of Engineering Services.
7. 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.
8. That the property 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.
9. That the property owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication equal to \$3,506.58 of the value of the lands to be severed.
10. That prior to final approval, an agreement between the owner/applicant and 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, deeds, and lease/rental agreements:
  - 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 prior to occupancy.
  - b) The following noise warning clauses will be included in all offers of purchase and sale, deeds and lease/rental agreements:
    - i. *"Purchasers 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 Highway 7/85, highway on-off ramps and Bruce Street, may on occasions, interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP)."*
    - ii. *"This unit has been supplied with a 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 & Parks (MECP)."*
    - iii. *"Purchasers/tenants are advised that due to the proximity of the adjacent commercial uses, noise from the commercial uses may at times be audible."*
  - c) That the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the building plans and upon completion of construction, the City of Kitchener's Building Inspector will certify that the dwelling units have been constructed accordingly.

**11. That prior to final approval, the owner/applicant must submit a valid Notice of Source Protection Plan Compliance (Section 59 Notice) as per the *Clean Water Act, 2006*.**

**REPORT HIGHLIGHTS:**

- The purpose of this report is the applicant is requesting consent to create one new lot and retain one lot to be used for semi detached dwellings. The lot to be severed is proposed to have a lot width of 7.623 metres, a lot depth of 38.1 metres and a lot area of 290.33 square metres. The lands to be retained will have a lot width of 7.617 metres, a lot depth of 38.1 metres and a lot area of 290.41 square metres. The existing single detached dwelling has been demolished and construction is underway for the semi-detached dwellings proposed on each of the proposed severed and retained lands.
- There are no financial implications.
- Community engagement included circulation of the application via mail and notification by way of the Record and signage placed on the property.
- This report supports the delivery of core services.

**BACKGROUND:**



**Location Map: 59 Bruce Street**

The subject property is located near the intersection of Bruce Street and Ephraim Street, in close proximity to the Victoria Street offramp from Highway 7. The existing development of the neighbourhood consists of a mix of residential uses, as well as Commercial developments along Victoria Street North.

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 Residential Four Zone (RES-4) in Zoning By-law 2019-051, which is currently under appeal.

The purpose of the application is to request consent to create one new lot and retain one lot to be used for semi detached dwellings. The lot to be severed is proposed to have a lot width of 7.623 metres, a lot depth of 38.1 metres and a lot area of 290.33 square metres. The lands to be retained will have a lot width of 7.617 metres, a lot depth of 38.1 metres and a lot area of 290.41 square

**BRUCE STREET**  
(ESTABLISHED BY REGISTERED PLAN 357)  
PIN 22309-0001 (LT)

P1 & MEAS N23°51'15"W  
P1 & MEAS 15.240

PROPOSED DRIVEWAY

8.53

6.37

1.90

1.22

6.37

6.37

6.37

1.22

38.101

22.02

**PART 1**

PIN 22310-0014 (LT)

**LANDS SEVERED**

BP#22-106141

0.03 Hect.  
290.33 Sq.m.

7.55

7.623

0.52

GARAGE

N23°53'25"W  
FI & MEAS 15.240

PIN 22310-0016 (LT)

PROPOSED DRIVEWAY

8.53

6.37

1.90

1.22

6.37

6.37

6.37

1.22

22.02

**PART 2**

PIN 22310-0014 (LT)

**LANDS RETAINED**

BP#22-106054

0.03 Hect.  
290.41 Sq.m.

7.55

7.617

0.37

SLED

1.12

1.11

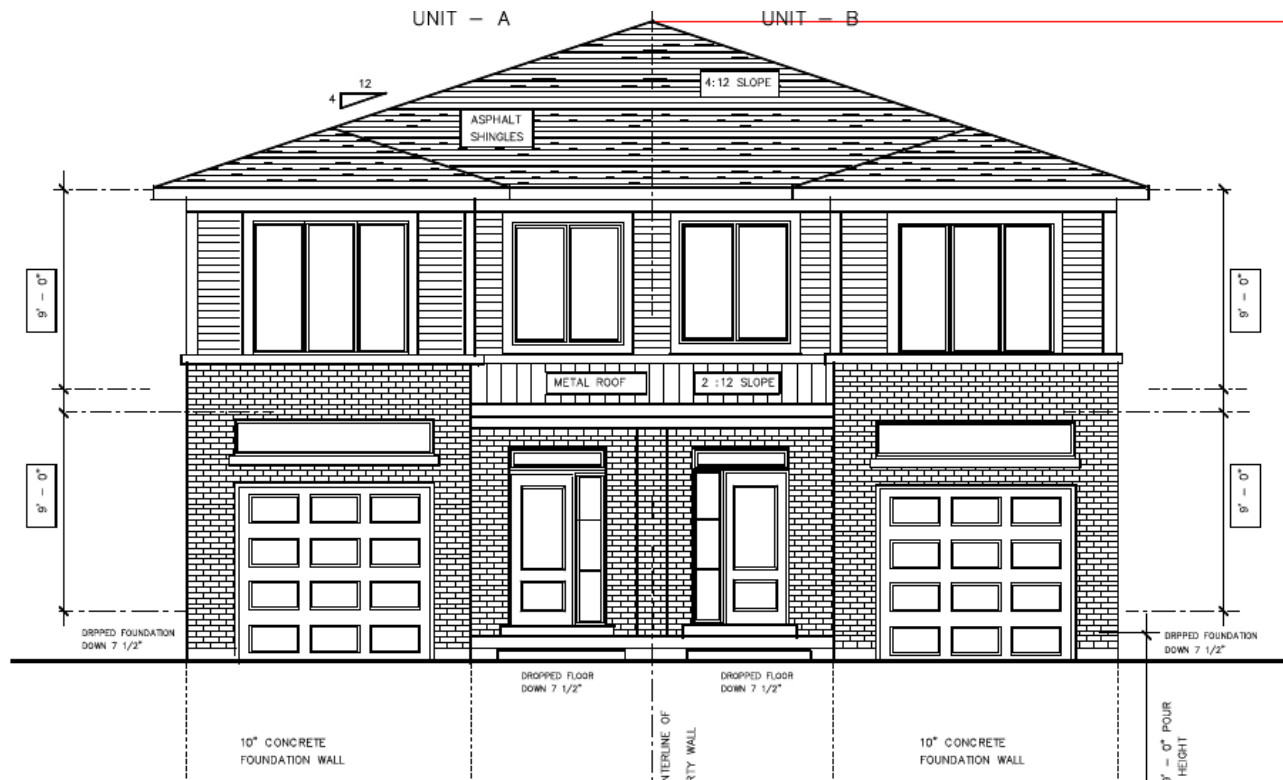
IP [OU]

P1 & MEAS 1.37

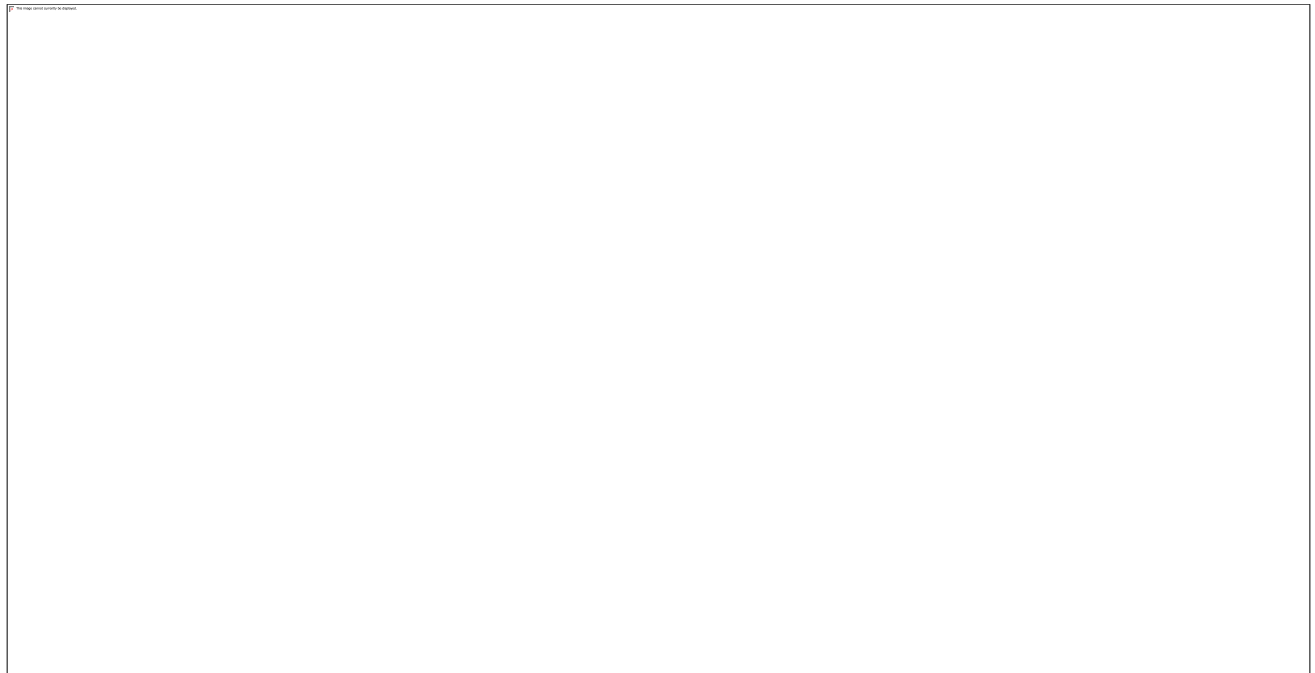
1-

PI &

### Proposed lot fabrics



Approved Elevation Drawings



Existing Dwelling – 59 Bruce Street

## REPORT:

### Planning Comments:

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

#### Provincial Policy Statement (PPS 2020)

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

Planning staff is of the opinion that the proposed application will facilitate a form of gentle intensification of the subject property 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

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 in close proximity to transit and the subject lands are in closer 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 recognize the development of the lot with a semi-detached dwelling and allow both halves to be dealt with independently. The construction of the new semi-detached dwelling helps make efficient use of existing infrastructure, parks, roads, trails and transit. Planning staff is of the opinion that the development proposal conforms to the Growth Plan.

#### Regional Official Plan (ROP):

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

#### City's Official Plan (2014)

The subject property is identified as 'Community Area' on Map 2 – Urban Structure and is designated 'Low Rise Residential' on Map 3 – Land Use in the City's 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 lot widths and lot areas of the proposed severed and retained lots exceed the minimum R-5/RES-4 zone lot width and lot area requirements 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. 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 to recognize the development of the lot with a semi-detached dwelling and allow both halves to be dealt with independently conforms with the City of Kitchener Official Plan.

#### Zoning By-law 85-1/2019-051

The subject property is zoned as ‘Residential Five Zone (R-5)’ in Zoning By-law 85-1, and zoned ‘Low Rise Residential Four Zone (RES-4)’ in Zoning By-law 2019-051. The proposed lot widths and lot areas of the proposed severed and retained lots exceed the minimum R-5/RES-4 zone lot width and lot area requirements. A building permit has been issued for the proposed semi-detached dwelling which meets all zoning requirements. The semi-detached dwelling as situated on the sketch for severance will continue to meet all zoning requirements.

#### **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 lots are 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.

**Environmental Planning Comments:**

No environmental planning concerns.

**Heritage Planning Comments:**

No heritage planning concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed consent.

**Engineering Division Comments:**

- Severance of any blocks within the subject lands will require separate, individual service connections for sanitary, storm, and water, in accordance with City policies.
- The owner is required to make satisfactory financial arrangements with the Engineering Division for the installation of new service connections that may be required to service this property, all prior to severance approval. Our records indicate sanitary and water municipal services are currently available to service this property. Any further enquiries in this regard should be directed to Jason Brule ([jason.brule@kitchener.ca](mailto:jason.brule@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 Division Comments:**

Cash-in-lieu of park land dedication will be required on the severed parcel as 1 new development lot will be created. The cash-in-lieu dedication required is **\$3,506.58**. Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of (7.623m) at a land value of \$9,200 per frontage meter.

**Transportation Planning Comments:**

Transportation Services have no concerns with the proposed application.

**Region of Waterloo Comments:**

The owner/applicant is proposing to sever the existing lot into two lots and create a duplex on each lot.

**Regional Fee:**

Regional Staff confirm receipt of the required consent review fee.

**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 and Stationary Noise:**

Regional Staff note that the subject lands are in close proximity to Provincial Highway 7/85, highway on-off ramps, Bruce Street, and existing commercial uses. It is noted that there is a substantial grade difference from the highway located at back of the proposed dwellings. Although there are some existing intervening land uses between the proposed dwellings and the transportation noise sources, the proposed dwellings on the retained and severed lots will likely have impacts from transportation and stationary noise sources. It is the responsibility of the applicant to ensure the proposed development is not adversely affected by anticipated transportation (traffic) and stationary (commercial) noise impacts. Given these transportation and stationary noise impacts, it is anticipated that the dwelling units may require special building materials e.g. walls, windows, etc. in addition to the installation of air conditioning prior to occupancy.

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 primary transportation noise source is a Provincial Highway, 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 both Severed and Retained 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 prior to occupancy.
- b) The following noise warning clauses will be included in all offers of purchase and sale, deeds and lease/rental agreements:
  - i. *“Purchasers 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 Highway 7/85, highway on-off ramps and Bruce Street, may on occasions, interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP).”*
  - ii. *“This unit has been supplied with a 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 & Parks (MECP)."*

iii. *"Purchasers/tenants are advised that due to the proximity of the adjacent commercial uses, noise from the commercial uses may at times be audible."*

- c) That the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the building plans and upon completion of construction, the City of Kitchener's Building Inspector will certify that the dwelling units have been constructed accordingly.

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

- 1) That prior to final approval, the owner/applicant must submit a valid Notice of Source Protection Plan Compliance (section 59 notice) as per the *Clean Water Act, 2006*.
- 2) 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, deeds, and lease/rental agreements:
  - 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 prior to occupancy.
  - b) The following noise warning clauses will be included in all offers of purchase and sale, deeds and lease/rental agreements:
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  - c) That the City of Kitchener's Building Inspector certify that the noise attenuation measures are incorporated in the building plans and upon completion of construction, the City of Kitchener's Building Inspector will certify that the dwelling units have been constructed accordingly.

#### **STRATEGIC PLAN ALIGNMENT:**

This report supports the delivery of core services.

**FINANCIAL IMPLICATIONS:**

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

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

**COMMUNITY ENGAGEMENT:**

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

**PREVIOUS REPORTS/AUTHORITIES:**

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