



PLANNING, DEVELOPMENT
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Community Planning

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Peter Ellis
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D20-20/22 KIT

August 10, 2022

Sarah Goldrup
Committee of Adjustment
City of Kitchener
P.O. Box 1118
200 King Street East
Kitchener, ON N2G 4G7

**Re: Revised Comments for Consent Application B2022-042
Committee of Adjustment Hearing August 16, 2022
CITY OF KITCHENER**

**B2022-042
59 Bruce Street
Nikola Karanovic**

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:

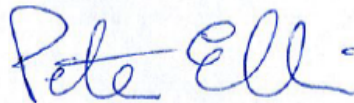
- 1) That prior to final approval, the owner/applicant must submit a valid Notice of Source Protection Plan Compliance (section 59 notice) as per the *Clean Water Act, 2006*.
- 2) That prior to final approval, an agreement between the owner/applicant and the City of Kitchener, to the satisfaction of 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:
 - 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.
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General Comments

Any future development on the lands subject to the above-noted consent application will be subject to the provisions of Regional Development Charge By-law 19-037 or any successor thereof. Please accept this letter as our request for a copy of the staff reports, decisions and minutes pertaining to each of the consent applications noted above. Should you require Regional Staff to be in attendance at the meeting or have any questions, please do not hesitate to contact the undersigned.

Yours truly,

A handwritten signature in blue ink that reads "Peter Ellis".

Peter Ellis, MES
Principal Planner