

# 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 4

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

**REPORT NO.:** DSD-2022-386

**SUBJECT:** Consent Application B2022-043 – 41-43 Harvest Court

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## RECOMMENDATION:

That Consent Application B2022-043 requesting consent to sever a parcel of land having a lot width of 9 metres, a lot depth of 46.8 metres and a lot area of 428 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 prior to final approval, the owner/applicant enter into an agreement with the Region of Waterloo, to be registered on title for both the retained and severed lands that includes the requirements for the following noise warning clause in all agreements of Offers of Purchase and Sale, lease/rental:

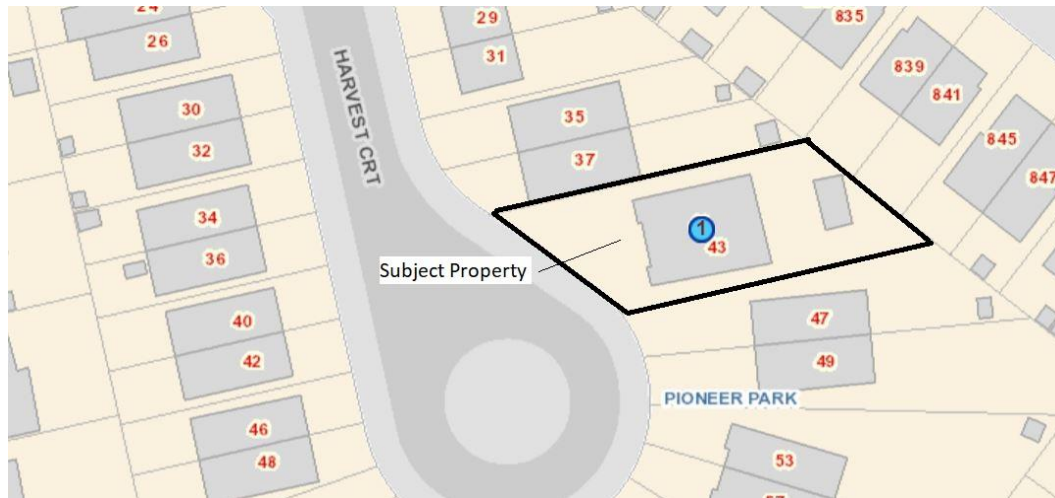
***“Purchasers are advised that sound levels due to increasing road traffic on Doon Village Road may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment, Conservation and Parks (MECP)”.***

## REPORT HIGHLIGHTS:

- The purpose of this report is to provide recommendations for the approval of the request to sever an existing semi-detached dwelling on Harvest Court so that each half of the semi-detached dwelling may be dealt with independently.
- There are no financial implications
- This report supports the delivery of core services.

## BACKGROUND:

The subject property is located on Harvest Court, near Doon Village Road and Bechtel Drive, in the Pioneer Park Neighbourhood



**Figure 1: Location map: 41-43 Harvest Court**

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

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

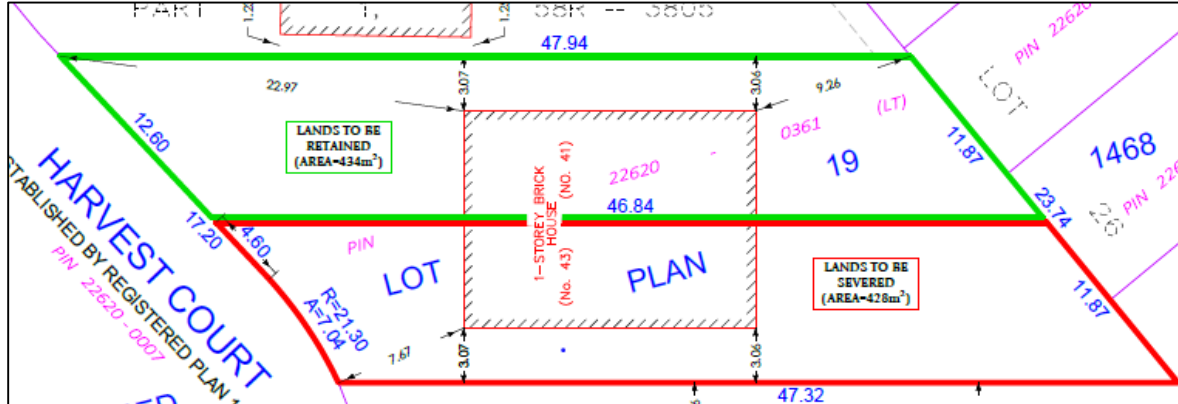
The applicant is requesting consent so that each half of the existing semi-detached dwelling may be able to be conveyed and dealt with independently. The properties haven't merged on title. Records indicate the property is the whole of a lot on a registered plan of subdivision. There was a part-lot control exemption by-law registered in 1979 but it was repealed in 1983 before the owner could create each half of the semi-detached lot.



**Figure 2 – Street View Photo – 41-43 Harvest Court**

The severed land will have a width of 9.0 metres, a depth of 46.0 metres and an area of 428 square metres. The retained land will have a width of 9.0 metres, a depth of 46.0 metres and an area of 434 square metres.

City staff conducted a site inspection of the property on July 29, 2022



**Figure 3: Severance sketch**

**REPORT:**

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 consent to allow both halves of the existing semi-detached dwelling to be dealt with independently 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 bus transit and 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 consent application to allow both existing semi-detached dwellings to be dealt with independently is consistent with 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 – 2014 Official Plan. Limited intensification may be permitted within Community Areas in accordance with the applicable land use designation on Map 3. The Low Rise Residential land use designation will accommodate a full range of low density housing types which may include single detached dwellings, additional dwelling units, attached and detached, semi-detached dwellings, street townhouse dwellings, townhouse dwellings in a cluster development, low-rise multiple dwellings, special needs housing, and other forms of low-rise housing.

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-4' and RES-4 zones 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 and existing built form are compatible with the surrounding neighbourhood which is developed primarily with semi detached dwellings with similar built form and lot sizes. The consent will recognize the way the properties are currently functioning as individual semi-detached lots. 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.

**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. 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 natural heritage or tree management policy concerns as no new construction is proposed.

**Heritage Planning Comments:**

No heritage planning concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed consent.

**Engineering Division Comments:**

Our system shows that individual servicing already exists to the two homes. Engineering has no comments.

**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 **\$4,218.20**. Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of (9.17m) at a land value of \$9,200 per frontage meter.

**Planning Comments:**

Upon further review and consideration by Planning staff, it is presumed that parkland dedication would have been taken at subdivision and because the semi-detached dwelling is existing and no new density is being proposed, this requirement has not been included as a condition of approval of this technical consent.

**Transportation Planning Comments:**

Transportation Services have no concerns with the proposed application.

**Region Comments:**

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

- 1) That prior to final approval, the owner/applicant enter into an agreement with the Region of Waterloo, to be registered on title for both the retained and severed lands that includes the requirements for the following noise mitigation and warning clauses in all agreements of Offers of Purchase and Sale, lease/rental agreements:
  - A. The following noise warning clause will be included in all offers of purchase, deeds and rental agreements:
    - i. *“Purchasers are advised that sound levels due to increasing road traffic on Doon Village Road 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)”.*

**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*