

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: January 17, 2023

SUBMITTED BY: Tina Malone-Wright, Interim Manager, Development Review
519-741-2200 ext. 7765

PREPARED BY: Craig Dumart, Senior Planner, 519-741-2200 x7073

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: January 4, 2023

REPORT NO.: DSD-2023-040

SUBJECT: Minor Variance Applications A 2023-011, A 2023-012, A 2023-013
and Consent Application B 2023-002 and B 2023-003 – 83, 87, and
97 Victoria Street North – KW Working Centre for the Unemployed –
GSP Group

RECOMMENDATION:

- A. That Minor Variance Application A2023-011 for 83 Victoria Street North requesting relief from the following sections of Zoning By-law 85-1:
- i) Section 17.2 to permit a lot width of 10.2 metres instead of the minimum required 16 metres;
 - ii) Section 17.2 to permit a minimum side yard setback of 1.45 metres instead of the required 3.0 metres;
 - iii) Section 17.2 to permit a minimum rear yard setback of 0 metres instead of the minimum required 7.5 metres;
 - iv) Section 17.2 to permit a minimum façade height of 2.4 metres instead of the minimum required 6.0 metres; and
 - v) Section 6.1.2 c) to permit a minimum parking rate of 0 parking spaces instead of the minimum required 1 parking space for every 15 square metres of floor area;
- to recognize the existing building, used as a Health Clinic, on the lot subject to Consent Application B2023-002, BE APPROVED.
- B. That Minor Variance Application A2023-012 for 87 Victoria Street North requesting relief from the following sections of Zoning By-law 85-1:
- i) Section 17.2 to permit a maximum setback to the street of 5.3 metres instead of the maximum 2.0 metres;
 - ii) Section 17.2 to permit a minimum side yard setback of 0 metres instead of the minimum 3.0 metres;
 - iii) Section 17.2 to permit a minimum rear yard setback of 0 metres instead of the minimum 7.5 metres;

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- iv) Section 17.2 to permit a minimum façade height of 2.4 metres instead of the minimum 6.0 metres; and
- v) Section 6.1.2 c) to permit a minimum parking rate of 0 parking spaces instead of the minimum 3 parking spaces for a residential care facility and 1 parking space for every 3 staff;

to recognize the existing building, used as a Residential Care Facility, on the lot subject to Consent Application B2023-003, BE APPROVED.

- C. That Minor Variance Application A2023-013 for 97 Victoria Street North requesting relief from the following sections of Zoning By-law 85-1:

- i) Section 17.2 to permit a minimum side yard setback of 0 metres rather than 3.0 metres;
- ii) Section 17.2 to permit a minimum rear yard setback of 0 metres rather than 7.5 metres; and
- iii) Section 6.1.2 c) to permit a minimum parking rate of 0 parking spaces rather than a minimum 3 parking spaces for a residential care facility and 1 parking space for every 3 staff;

to recognize the existing building, used as a Residential Care Facility, on the lot as a result of lot additions proposed by Consent Applications B2023023-002 and B2023-003, BE APPROVED.

- D. That Consent Application B2023-002 requesting consent to allow for a lot addition from 83 Victoria Street North to be conveyed to the property municipally addressed as 97 Victoria Street North, BE APPROVED subject to the following conditions:

1. That Minor Variance Applications A2023-011, A2023-012 and A2023-013 receive final approval.
2. That the lands to be severed be added to the abutting lands, municipally addressed as 97 Victoria Street North and title be taken into identical ownership as the abutting lands. The deed for endorsement shall include that any subsequent conveyance of the parcel to be severed shall comply with Sections 50(3) and/or (5) of the Planning Act, R.S.O. 1990, c. P.13, as amended.
3. That the owner's Solicitor shall provide a Solicitor's Undertaking to register an Application Consolidation Parcels immediately following the registration of the Severance Deed and prior to any new applicable mortgages, and to provide a copy of the registered Application Consolidation Parcels to the City Solicitor within a reasonable time following registration.
4. 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.
5. 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.
6. That the property owner shall provide 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.

7. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
 8. That prior to final approval, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property.
 9. That the owner retains a qualified designer to complete a Building Code Assessment as it relates to the new proposed property line and any of the building adjacent to this new property line shall address such items as:
 - i) Spatial separation of existing buildings' wall face to the satisfaction of the Chief Building Official. Closing in of openings may be required, pending spatial separation calculation results.
 - ii) A building permit shall be applied for any remedial work/ upgrades that may be required by the building code assessment.
- E. That Consent Application B2023-003 requesting consent to allow for a lot addition from 87 Victoria Street North to be conveyed to the property municipally addressed as 97 Victoria Street North, BE APPROVED subject to the following conditions:
1. That Minor Variance Applications A2023-011, A2023-012 and A2023-013 receive final approval.
 2. That the lands to be severed be added to the abutting lands, municipally addressed as 97 Victoria Street North and title be taken into identical ownership as the abutting lands. The deed for endorsement shall include that any subsequent conveyance of the parcel to be severed shall comply with Sections 50(3) and/or (5) of the Planning Act, R.S.O. 1990, c. P.13, as amended.
 3. That the owner's Solicitor shall provide a Solicitor's Undertaking to register an Application Consolidation Parcels immediately following the registration of the Severance Deed and prior to any new applicable mortgages, and to provide a copy of the registered Application Consolidation Parcels to the City Solicitor within a reasonable time following registration.
 4. 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.
 5. 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.
 6. That the property owner shall provide 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

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7. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
8. That prior to final approval, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property.
9. That the owner retains a qualified designer to complete a Building Code Assessment as it relates to the new proposed property line and any of the building adjacent to this new property line shall address such items as:
 - i) Spatial separation of existing buildings' wall face to the satisfaction of the Chief Building Official. Closing in of openings may be required, pending spatial separation calculation results.
 - ii) A building permit shall be applied for any remedial work/ upgrades that may be required by the building code assessment.

REPORT HIGHLIGHTS:

- The purpose of this report is to recommend approval of the proposed consent applications for lot additions and associated minor variances applications to permit the creation of a new affordable housing project.
- Community engagement included circulation of the application via mail, notification by way of the Record and signage placed on the property.
- There are no financial implications.
- This report supports the delivery of core services.

BACKGROUND:

The subject properties, 83, 87 and 97 Victoria Street North are located near the intersection of Victoria Street North and Weber Street West with frontage on both Victoria Street North and Heit Lane. 83 Victoria Street North is currently developed with a community dental clinic, 87 Victoria Street North is currently developed with a residential care facility and 97 Victoria Street North is currently developed with a retail store and community kitchen. All three properties are owned and operated by the KW Working Centre for the Unemployed which operate as one "campus" providing shelter, social and health services. The existing development of the neighbourhood consists of commercial buildings, multiple dwellings, single detached dwellings, institutional buildings and industrial buildings. Lot sizes vary in width, depth, and area in this neighborhood.

City Planning staff conducted a site inspection of the property on January 4, 2023.

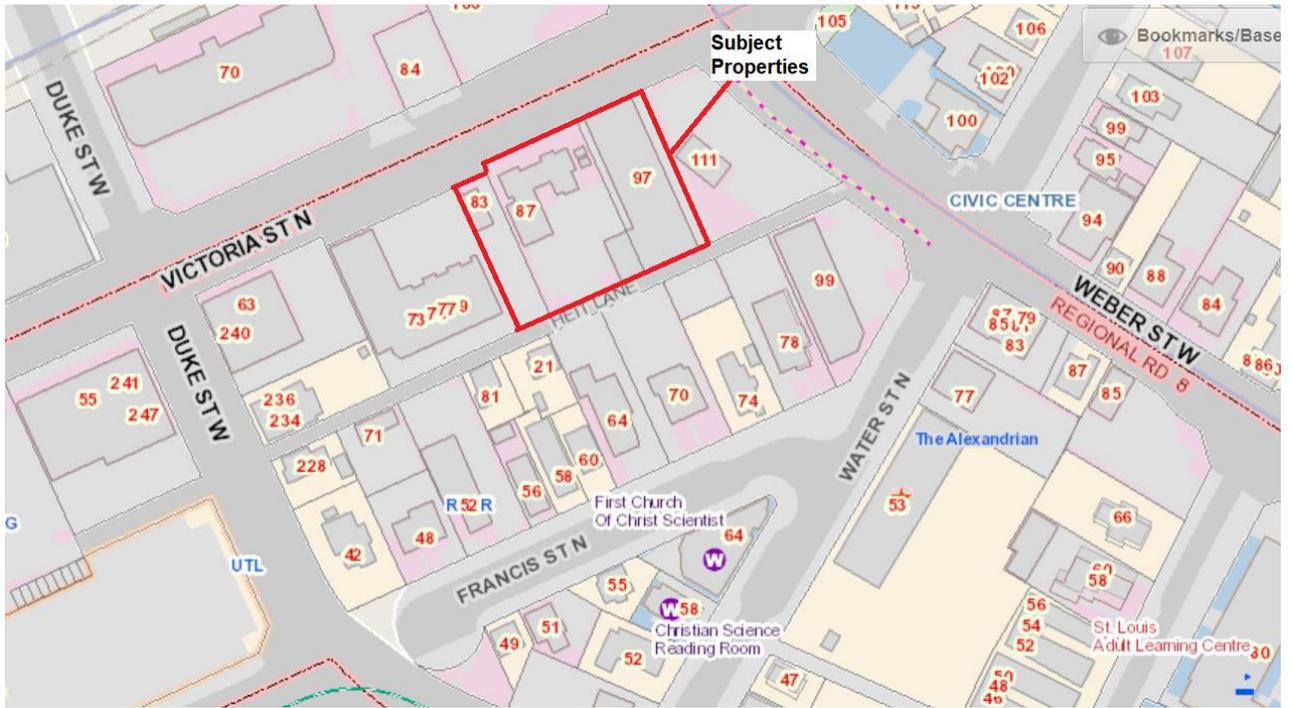


Image 1 - Location Map: 83-97 Victoria Street North



Image 2 – Existing buildings at 83-97 Victoria Street North

The applicant is proposing to create new transitional housing with 44 affordable rental housing units by adding a third floor addition to the existing building at 97 Victoria Street South and relocating the community kitchen to a new one-storey dining hall and community clinic on-site for counselling and recreation. The existing residential care facility at Victoria Street North and the existing community dental clinic at 83 Victoria Street North will remain and continue to provide additional accommodation and services. A formal Site Plan Application (SP22/167/V/CD) is currently being reviewed for this development at 97 Victoria Street North. The three properties are separate on title however they will continue to function as one “campus’ where people can live safely and with dignity. The proposed campus combines housing, community, health, services and access to a wide range of supports.

To facilitate the affordable housing project with ancillary services, two Consent Applications for lot additions are required to add lands from 83 and 87 Victoria Street North to 97 Victoria Street North to ensure lots lines are not going through existing and proposed buildings. As such the applicant is proposing to sever the rear portions of the lots of 83 and 87 Victoria Street North and convey those lands to 97 Victoria Street North (See image 3 below).

The lands to be severed from 83 Victoria Street North and conveyed to 97 Victoria Street North are located in the rear of 83 Victoria Street North and have a width of 10.2 metres, a depth of 28 metres and an area of 284.6 square metres. The retained lands at 83 Victoria Street North will have a lot width of 10.2 metres, a depth of 17 metres and a lot area of 173.6 square metres.

The lands to be severed from 87 Victoria Street North and conveyed to 97 Victoria Street North the have a width of 3.2 metres along Victoria Street North, a depth of 48 metres and an area of 908.1 square metres. The retained lands at 87 Victoria Street North will have a lot width of 27 metres, a depth of 20.1 metres and a lot area of 542.4 square metres. No new development is planned for 83 or 87 Victoria Street North at this time.

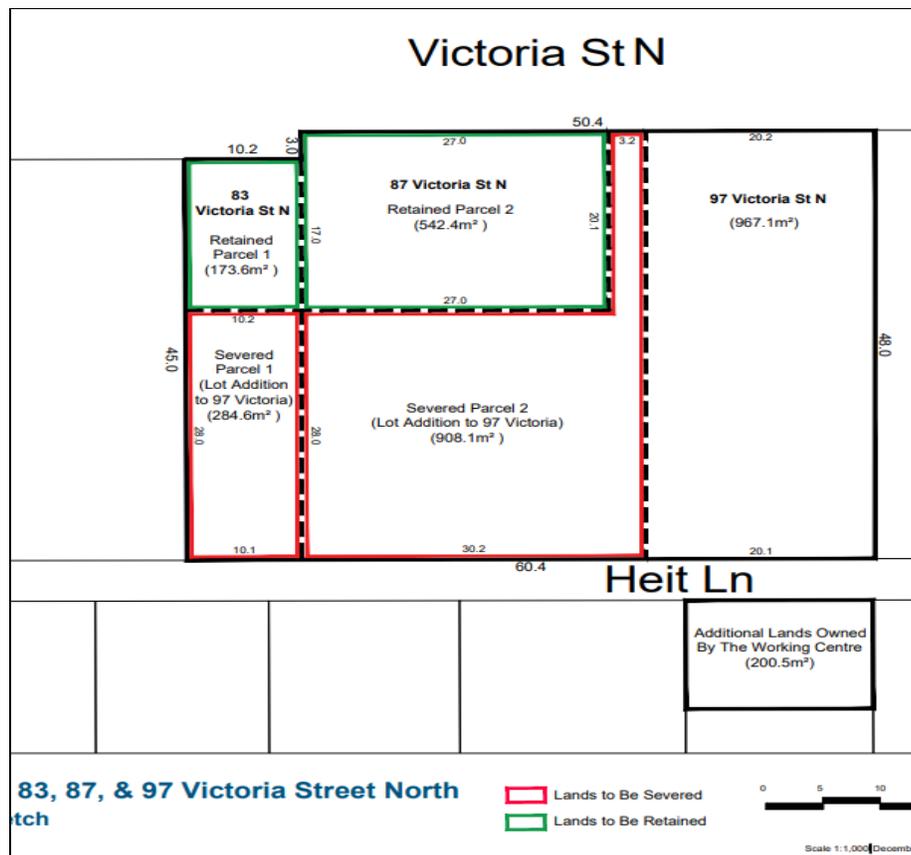


Image 3 – Proposed Severance Sketch

The subject properties are identified as 'Urban Growth Centre' on Map 2 – Urban Structure and are designated 'Innovation District' on Map 4 – Urban Growth Centre in the City's 2014 Official Plan.

The properties are currently zoned 'Warehouse District Zone (D-6) with Special Regulation 105R, Special Uses 116U and 403U Holding Provision 10H and 14T' in Zoning By-law 85-1

Minor variance applications are required for each property to legalize building façade heights, setbacks and parking requirements.

REPORT:

Planning Comments Minor Variance Applications

The applicant is requesting minor variances to the Warehouse District Zone (D-6) of By-law 85-1 for 83, 87 and 97 Victoria Street North to legalize building façade heights, setbacks and parking requirements as a result of the lot additions which are required to facilitate the development of proposed affordable housing development and ancillary social services. The requested variances are as follows:

A2023-011 (83 Victoria Street North, lands to be retained):

The applicant is requesting relief from 17.2 of Zoning By-law 85-1, to permit:

- a) a lot width of 10.2 metres rather than 16 metres;
- b) a minimum side yard setback of 1.45 metres rather than 3.0 metres for the existing building
- c) a minimum rear yard setback of 0 metres rather than 7.5 metres for the existing building.
- d) A minimum façade height of 2.4 metres rather than 6.0 metres for the existing building.

Furthermore, the applicant is requesting relief from 6.1.2 c) of Zoning By-law 85-1, to permit a minimum parking rate of 0 rather than 1 for every 15 square metres for the existing Health Clinic.

A2023-012 (87 Victoria Street North, lands to be retained):

The applicant is requesting relief from 17.2 of Zoning By-law 85-1, to permit:

- a) a maximum setback to the street of 5.3 metres rather than 2.0 metres;
- b) a minimum side yard setback of 0 metres rather than 3.0 metres for the existing building
- c) a minimum rear yard setback of 0 metres rather than 7.5 metres for the existing building.
- d) A minimum façade height of 2.4 metres rather than 6.0 metres for the existing building.

Furthermore, the applicant is requesting relief from 6.1.2 c) of Zoning By-law 85-1, to permit a minimum parking rate of 0 rather than a minimum 3 parking spaces for a residential care facility and 1 parking space for every 3 staff.

A2023-013 (97 Victoria Street North):

The applicant is requesting relief from 17.2 of Zoning By-law 85-1, to permit:

- a) a minimum side yard setback of 0 metres rather than 3.0 metres
- b) a minimum rear yard setback of 0 metres rather than 7.5 metres.

Furthermore, the applicant is requesting relief from 6.1.2 c) of Zoning By-law 85-1, to permit a minimum parking rate of 0 rather than a minimum 3 parking spaces for a residential care facility and 1 parking space for every 3 staff to permit the redevelopment of the subject lands with a residential care facility and ancillary uses.

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

General Intent of the Official Plan

The subject lands are designated 'Innovation District' (Map 4, Urban Growth Centre) in the City of Kitchener Official Plan. The Innovation District is characterized by a mix of high rise and medium residential, mixed use, institutional, commercial and office buildings and old large industrial buildings which either have been converted to loft style office, residential and other viable uses or have the potential to do so. This area of the city is expected to evolve and transform into a dense urban contemporary setting with continued growth in the high-tech industry coupled with the research office uses affiliated with the nearby post-secondary institutions. The primary uses permitted in the Innovation District include offices, particularly research and high-tech offices, institutional uses and residential uses. The requested variances to legalize existing site conditions, reduce rear yard setbacks and reduce the parking requirements for the existing and proposed affordable housing development and ancillary uses support the objects of the Innovation District. Staff is of the opinion that the intent of the Official Plan is maintained.

General Intent of the Zoning By-law

The subject lands are Zoned Warehouse District Zone (D-6) with Special Regulation 105R, Special Uses 116U and 403U Holding Provision 10H and 14T. The existing D-6 zone and special provisions permit the use of the subject lands for a residential care facilities with ancillary social service and health clinic uses.

Side yard, lot width, and façade height variances:

The requested variances to legalize building setbacks, lot widths and façade heights are existing conditions and are triggered as a result of the required lot additions. The lot additions are necessary for the redevelopment of the affordable housing project at 97 Victoria Street North as the proposed building cannot be constructed over multiple property lines. The variance to legalize the reduced lot width and variances for the reduced side yard building setbacks and reduced façade heights of the existing buildings will continue to permit the health clinic at 83 Victoria Street North the residential care facility at 87 Victoria Street North and allow for the development of an affordable housing project at 97 Victoria Street which meet the general intent of the Warehouse District Zone.

Rear yard variances:

The requested variances for 0 metre rear yard setbacks are a result of the lot additions to facilitate the development at 97 Victoria Street North. The intent of rear yard setbacks is to provide an adequate buffer between buildings and adjacent properties. The three properties currently function as one site as a community social services campus and will continue to do so in the future. Adequate separation is met between existing and proposed buildings. Staff are of the opinion that the requested variances meet the general intent of the Zoning By-law.

Parking variances:

The intent of the required parking regulation is to provide for adequate vehicle storage on site. The proposed community campus envisions a transit-oriented, pedestrian first development that proposes 0 parking spaces for the subject lands at 83, 87 and 97 Victoria Street North. The subject lands are within 325 metres of the Central LRT ION Station and 425 metres of Kitchener City Hall LRT Ion Station. The Urban Growth Centre is to give pedestrian, cycling, and rapid transit modes of transportation the priority over vehicular circulation within the overall transportation system. Should users of the community campus require vehicular parking, off site parking is available at the city-

operated parking garages and surface lots located in close proximity the subject lands. Furthermore, the subject properties which are located in the City's downtown contains an established network of 2-hour temporary on street parking for visitors and short term site users. Staff are of the opinion that the provision of a transit and active transportation oriented development within the Urban Growth Centre induces a reduced demand for vehicle storage and that any additional parking required parking storage can be provided in nearby city operated downtown parking garages and on street short term parking. Staff are of the opinion that the requested variance meets the general intent of the Zoning By-law.

Are the Effects of the Variances Minor?

Staff is of the opinion that the effects of the variances are minor. The requested variances legalize existing site conditions and allow for an affordable housing development with 0 required parking spaces in the City's downtown. Planning staff do not expect any adverse impacts as a result of the requested variances, and therefore the effects can be considered minor.

Are the Variances Desirable for the Appropriate Development or Use of the Land, Building and/or Structure?

Staff is of the opinion that the variances are desirable for the appropriate development and use of the lands, building and/or structure. The proposed variances support the creation of an affordable housing project and ancillary support services and legalize existing site conditions.

Planning Comments Consent Applications B2023-002, and B 2023-003:

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 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 located within the City's delineated Urban Growth Centre (UGC), and within a Major Transit Station Area (MTSA) in the 2014 Kitchener Official Plan. In the City's OP on Map 2 – Urban Structure the lands appear within the MTSA circle for the Central Station. Urban Growth Centres plan to accommodate significant population and employment growth. and the severance applications 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 Urban Growth Centre in the ROP. 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. The Region has indicated that they have no objections to the proposed lot additions and provide additional ROP commentary with respect to natural heritage, servicing and noise in the attached Region of Waterloo comments. Planning staff are of the opinion that the severance applications conform to the Regional Official Plan.

City's Official Plan (2014)

The subject properties are identified as 'Urban Growth Centre' on Map 2 – Urban Structure and are designated 'Innovation District' on Map 4 – Urban Growth Centre in the City's 2014 Official Plan.

Section 17.E.20.4 of the Official Plan implements Section 51 of the Planning Act and contains policies regarding boundary adjustments and conveying additional lands to an abutting lot provided an undersized lot is not created. The proposed severance is in accord with this aspect of the plan and maintains the residential land use designation.

Planning staff is of the opinion that the size, dimension and shape of the lots are result of the lot addition are suitable for the use of the lands and compatible with the surrounding neighbourhood, which is developed with commercial buildings, industrial buildings, institutional buildings, single detached, semi detached and multiple dwellings all 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 severances conform with the City of Kitchener Official Plan.

Zoning By-law

The properties are currently zoned 'Warehouse District Zone (D-6) with Special Regulation 105R, Special Uses 116U and 403U Holding Provision 10H and 14T' in Zoning By-law 85-1.

Planning staff is of the opinion that the size, dimensions and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding neighbourhood. The subject lands all front onto a public street and full services are available for the lands.

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 future use 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, that natural resources are conserved and that there are adequate services for the lands. 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:

Environmental Planning staff have no concerns.

Heritage Planning Comments:

The property municipally addressed as 97 Victoria Street North is listed as a property of cultural heritage value or interest on the Kitchener Municipal Heritage Register. A Heritage Impact Assessment (HIA) has been submitted as part of an active planning application for 97 Victoria Street

North and is currently under review. Heritage Planning staff have no concerns or issues with these applications.

Building Division Comments:

The Building Division has no objections to the proposed consent provided:

1. A qualified designer is retained to complete a Building Code Assessment as it relates to the new proposed property line and any of the building adjacent to this new property line shall address such items as: Spatial separation of existing buildings' wall face to the satisfaction of the Chief Building Official. Closing in of openings may be required, pending spatial separation calculation results.
2. A building permit shall be obtained for any remedial work/ upgrades that may be required by the building code assessment.

Engineering Division Comments:

Engineering staff have no concerns.

Parks/Operations Division Comments:

Parks and Operations staff have no concerns.

Transportation Planning Comments:

Transportation Services have no concerns with the proposed application given the context of the site and its uses, as well as the fact that there are loading bays provided for this site off Heit Lane, with an on-site barrier-free space, and several parking spaces located off-site.

Region of Waterloo Comments:

See Attachment A.

Metrolinx Comments:

See Attachment B.

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

- Regional Official Plan (ROP)
- Official Plan (2014)
- Zoning By-laws 85-1

ATTACHMENTS:

Attachment A – Region of Waterloo Comments

Attachment B - Metrolinx Comments

Attachment C – Concept Site Plan