



PLANNING, DEVELOPMENT
AND LEGISLATIVE SERVICES
Community Planning

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D20-20/23 KIT

March 15, 2023

Marilyn Mills, Secretary Treasurer
Committee of Adjustment
City of Kitchener
P.O. Box 1118
200 King Street East
Kitchener, ON N2G 4G7

**Re: Comments for Consent Applications B-2023-007-B2023-0011,
B2023-14-B2023-15 and B2022-057
Committee of Adjustment Hearing March 21, 2023
CITY OF KITCHENER**

**B2022-0057
193 Louisa Street
Mohammad Gohari (owner)**

The owner/applicant is proposing to create a new lot for a newly constructed semi-detached dwelling.

Regional Fee:

The owner/applicant is required to submit the Regional consent review fee of \$350.00 prior to final approval of the consent.

Regional Water Services (Advisory):

The Applicant shall be advised that no connection to regional watermain will be permitted in accordance with Section B.2.1.4.1 of the *Design Guidelines and Supplemental Specifications for Municipal Services, February 2022*.

Corridor Planning:

Access Permit:

Regional Staff advise that an Access Permit application, with the required \$100.00 fee, shall be required for the proposed access onto Weber Street West (RR #08). Applications for the permit are available at the following link: [Application and Payment for an Access Permit - Region of Waterloo](#)

Servicing Easement/Work Permit:

- a) The Servicing Easement and any servicing within the easement must be totally located within the private property limits of severed/retained lots;
- b) The works within the Region's road allowance must be limited to excavation activities and asphalt restoration;
- c) The applicant(s) contractor must apply and obtain approval of a Regional Work Permit from the Regional Corridor Management Division of any works within or abutting the Region's Road right-of-way and Region of Waterloo Railway Corridor, as may be required for the construction of the site servicing. In addition the applicant must abide by all conditions and stipulations outlined within the Work Permit Application. The Permit application can be found here: [Apply For A Permit - Regional Municipality of Waterloo Online Application \(permitcentral.ca\)](https://permitcentral.ca)
- d) It is recommended that the proposed 150mm diameter storm service connect directly to the existing manhole along Louisa Street to mitigate the extent of the asphalt restoration along Louisa Street; and
- e) Lane closures or traffic impacts along Weber Street will not be permitted as part of these works.

Environmental Noise:

The proposed development is likely to have impacts from road traffic noise from traffic on Weber Street West (RR #08) and rail noise / vibration from adjoining Region of Waterloo railway line.

Regional Staff acknowledge that based on discussions with the City of Kitchener and CN Railway that all parties are agreeable to waiving the requirement for a detailed noise and vibration study. The owner/applicant may choose to undertake and implement a noise and vibration study, however Regional Staff are recommending that the following noise warning clauses be implemented through a development agreement with the Region, registered on title, indicating that:

1. The following noise warning clause will be required to be included on all offers of purchase, deeds and rental agreements for the building / dwelling units:
 - i. *"Purchasers / tenants are advised that sound levels due to increasing road traffic on Weber Street and Region of Waterloo Railway may occasionally 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. This dwelling 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 Ministry of the Environment, Conservation and Parks (MECP).*

- ii. *“Purchasers / tenants are advised that sound levels due to increasing traffic on Weber Street and Region of Waterloo Railway may occasionally 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).”*
- iii. *“Warning: Region of Waterloo / Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.”*

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

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00.
- 2) That prior to final approval, the owner/applicant will apply for and obtain the required access permit(s) to the satisfaction of the Region of Waterloo.
- 3) That prior to final approval the owner/applicant must apply for and obtain approval of a Regional Work Permit from Regional Corridor Management Division of any works within or abutting the Region’s Road right-of-way and Region of Waterloo Railway Corridor,
- 4) That prior to final approval, an agreement between the owner/applicant and the Region of Waterloo, 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 warning clauses in all agreements of Offers of Purchase and Sale/lease/rental agreements:
 - i. *“Purchasers / tenants are advised that sound levels due to increasing road traffic on Weber Street and Region of Waterloo Railway may occasionally 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. This dwelling 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 Ministry of the Environment, Conservation and Parks (MECP).”*

- ii. *“Purchasers / tenants are advised that sound levels due to increasing traffic on Weber Street and Region of Waterloo Railway may occasionally 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).”*
- iii. *“Warning: Region of Waterloo / Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.”*

B2023-0007

60 Third Avenue

Zoran Bogunovic (owner) / Boban Jakanovic (Authorized Agent)

The owner/applicant is proposing to sever the parcel into two equal parts so that the newly created parcel is used for the development of a detached duplex dwelling.

Regional Fee:

The owner/applicant is required to submit the Regional consent review fee of \$350.00 prior to final approval of the consent.

Source Protection Plan Compliance (Section 59 Notice):

The subject lands are located in a Source Protection Area where Risk Management Plan policies implemented by the Region of Waterloo may apply. The owner/applicant must complete the questionnaire on <https://taps.regionofwaterloo.ca/> to obtain a valid Section 59 Notice.

Corridor Planning

Environmental Noise:

The proposed severed and the retained lots are located within 200 metres (roughly 180m) of Provincial Highway 7/8 and would have impacts from transportation noise sources in the vicinity. In lieu of a detailed environmental noise study, Regional staff recommend the following noise attenuation measures implemented through a registered development agreement with the Owner/Developer and City of Kitchener, prepared to the satisfaction of the Regional Municipality of Waterloo for both, the severed and the retained lot:

- A) The dwelling / building shall be installed with suitably sized and designed forced air-ducted heating and ventilation system; and installed with central air-conditioning system prior to occupancy.
- B) The following noise warning clauses shall be included in the development agreement and purchase and tenancy agreements and offers of purchase and sale for the dwelling units:

Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks.

Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks.

This dwelling 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 Municipality and the Ministry of the Environment.

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

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00.
- 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 severed and retained lands that includes the requirement for the following noise mitigation measures and warning clauses in all agreements of Offers of Purchase and Sale, deeds, and lease/rental agreements:

- A) The following noise warning clauses will be included in the development agreements, purchase and tenancy agreements and offers of purchase and sale for the dwelling units:

“Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks.”

“Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks.”

“This dwelling 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 Municipality and the Ministry of the Environment.”

3) That prior to final approval, the owner/applicant must submit a valid section 59 notice.

B2023-0008 and B 2023-0009

241-243 Victoria Street South

Willowside Housing Co-Operative Inc. (Owners) / Scott Patterson (Patterson Planning Consultants Inc. – Authorized Agent)

The applicant is proposing a lot addition of 389.3m² of the lands at 241-243 Victoria Street South to the lands at 239 Victoria Street South and the creation of an access easement in favour of 239 Victoria Street from the retained lands of 241-243 Victoria Street South.

Regional Fee:

The owner/applicant is required to submit the Regional consent review fee of \$350.00 for each application (\$700.00 total) prior to final approval of the consent.

Corridor Planning:

The proposed easement is in front of an existing transit stop. The existing transit stop may need to be relocated as a result of this proposal.

While the related Site Plan application is not yet approved by the City (file SP 21/088/V/LT), several concerns were identified by the Region in the comments dated October 25, 2021. To address the concerns raised, the **following conditions must be secured through a condition of consent for the above application:**

Dedicated Road Widening:

At this location, Victoria Street South (Regional Road 55) has a designated road width of 26.213m (86ft) in accordance the Regional Official Plan (ROP). The existing Victoria Street South right of way measures approximately 20.117m (66ft) at this location. An estimated road widening dedication of 3.048m (10ft) shall be required along the Victoria Street South property frontage of 235 and 239 Victoria Street South. A draft Reference Plan must be provided to identify the lands to be dedicated fronting the subject properties and the proposed easement. The land must be dedicated to the Region of Waterloo for road allowance purposes, and must be dedicated without cost and free of encumbrance.

Environmental Noise Study:

As this consent is associated with a Site Plan application (SP21/088/V/LT), An Environmental noise study is required as a condition of approval for the proposed consent to address the detailed design of the proposed building on 235-239 Victoria Street North.

Access Permit:

A detailed plan showing the proposed access, the existing transit stop and the proposed easement must be provided prior to approval of the access permit.

The Plan must also show that there are no encroachments within the Regional right-of-way for the future proposed development for which the proposed access easement is being requested.

A Regional Access Permit along with the Regional Road Access Permit application can be found online (<https://www.regionofwaterloo.ca/en/doing-business/applications-licences-and-permits.aspx>), there is a \$230 fee associated with the application for a new access, there is no fee for the closure applications.

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

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00.
- 2) That prior to final approval, the owner/applicant will apply for and obtain the required access permit(s) to the satisfaction of the Region of Waterloo.
- 3) That the owner/applicant complete the required road widening dedication to the satisfaction of the Region of Waterloo; and,
- 4) That prior to final approval, the Owner/Developer shall prepare an Environmental and Noise Study to the satisfaction of the Regional Municipality of Waterloo and if necessary, shall enter into a registered development agreement with the Regional Municipality of Waterloo to implement the recommendations.

B2023-0010

709 Glasgow Street

**John Gallivan and Susan Homer (Owners) / Dan Currie and Nicolette van Oyen
(MHBC Planning – Authorized Agent)**

The applicant is proposing to sever a parcel of land having a lot width of 20 metres along Glasgow Street, a lot depth of 126 metres and a lot area of 2,581 square metres for a new single detached dwelling. The lands to be retained will have a lot width of 26 metres along Glasgow Street, a lot depth of 125 m and a lot area of 4,043 square metres and will contain an existing single detached dwelling addressed as 709 Glasgow Street.

Regional Fee:

The owner/applicant is required to submit the Regional consent review fee of \$350.00 per consent application prior to final approval of the consent.

Source Protection Plan Compliance (Section 59 Notice):

The subject lands are located in a Source Protection Area where Risk Management Plan policies implemented by the Region of Waterloo may apply. The owner/applicant must complete the questionnaire on <https://taps.regionofwaterloo.ca/> to obtain a valid Section 59 Notice.

Corridor Planning:*Environmental Noise:*

The proposed severed and the retained lots are located within 200 metres (roughly 180m) of the CN Railway and is anticipated to have impacts from transportation noise sources in the vicinity. Therefore, in the absence of a detailed environmental noise study, the Region agrees to the following noise attenuation measures implemented through a registered agreement with the City of Kitchener for the severed and the retained lot:

Severed Lot:

- A) The dwelling/building will be installed with a suitably sized and designed forced air-ducted heating and ventilation system with the provision of central air-conditioning at the occupant's discretion.
- B) The following noise warning clauses will be included in the development agreements, purchase and tenancy agreements and offers of purchase and sale for the dwelling units:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks".

"This unit 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 Ministry of the Environment Conservation & Parks (MECP)."

"Warning: Canadian National Railway Company or its assigns or successors in interest has or have rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future, including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise

and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."

Retained Lot:

The following noise warning clauses will be included in the development agreements, purchase and tenancy agreements and offers of purchase and sale for the dwelling units:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks".

"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."

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

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per consent application.
- 2) That prior to final approval, the owner/applicant submit a valid Section 59 notice.
- 3) 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 severed and retained 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:

Severed Lot:

- a. The dwelling/building will be installed with a suitably sized and designed forced air-ducted heating and ventilation system with the provision of central air-conditioning at the occupant's discretion.
- b. The following noise warning clauses will be included in the development agreements, purchase and tenancy agreements and offers of purchase and sale for the dwelling units:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the

sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks".

"This unit 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 Ministry of the Environment Conservation & Parks (MOECP)."

"Warning: Canadian National Railway Company or its assigns or successors in interest has or have rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future, including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."

Retained Lot:

- a. The following noise warning clauses will be included in the development agreements, purchase and tenancy agreements and offers of purchase and sale for the dwelling units:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks".

"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."

B2023-011**131 St. George Street****Ilir Faikovski (Owner) / Jon Crummer (Homeridge Design – Authorized Agent)**

The applicant is proposing to sever an existing lot to permit a new single detached dwelling on the severed lands. The retained lands contain an existing dwelling.

Regional Fee:

The owner/applicant is required to submit the Regional consent review fee of \$350.00 per consent application prior to final approval of the consent.

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

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per consent application.

B2023-013, B2023-014 and B 2023-015**137 Queen Street South****St. Paul's Evangelical Lutheran Church (Owner) Heather Price (GSP Group Inc. – Authorized Agent)**

The applicant is proposing to sever a parcel for development and to establish two easements for access and parking on the parcel; one located along Church Street in favour of the retained (church) parcel and one located along Queen Street in favour of the retained (church) parcel and severed (house) parcel created by consent.

Regional Fee:

The owner/applicant is required to submit the Regional consent review fee of \$350.00 for each application (\$1050.00 total) prior to final approval of the consent.

Archaeological Assessment

Regional Staff note that the proposed severed parcel at 137 Queen Street South possesses the potential for the recovery of archaeological resources due to the Part V designated property, the sites location within a historic core area, the proximity to historically mapped and designated structures (the Historic St. Paul's Church), its location along an historic road and its location upon a landform associated with the habitation of early peoples in the area. As such, an Archaeological Assessment and Ministry Acknowledgement is required prior to final approval as per Regional Official Plan policy 3.G.9.

Corridor Planning

Environmental and Stationary Noise:

At this location, the proposed development may encounter environmental noise sources due to traffic on local municipal streets and potential stationary noise from the existing land uses and rooftop air-conditioning units in the vicinity; and any air-conditioning devices for the proposed development (both on-site and off-site). Staff also note that there are existing noise-sensitive land uses (residential) which may have impacts from the proposed development.

It is the responsibility of the applicant to ensure the proposed development does not have any environmental noise impacts by anticipated noise impacts both on-site and off-site. To assess and mitigate the environmental noise impacts, the applicant must prepare an Environmental Noise Study; the noise levels criteria and guidelines for the preparation of the study should follow the Ministry of the Environment, Conservation and Park NPC-300 requirements.

The consultant who prepares the Environmental Noise Study must be listed on the Region of Waterloo's Approved List of Noise Consultants and is responsible for obtaining current information, applying professional expertise in performing calculations, making detailed and justified recommendations, and submitting the Consultant Noise Declaration and Owner/Authorized Agent Statement. The consultant preparing the Environmental Noise Study must contact Region of Waterloo staff for transportation data, including traffic forecasts and truck percentages, for the purpose of preparing the Environmental Noise Study. Region of Waterloo staff will provide this data within three weeks of receiving the request from the noise consultant.

Please note that there is a \$500 fee for the preparation of the traffic forecasts and review of the Environmental Noise Study. The noise consultant preparing the Environmental Noise Study must submit the transportation data request online via (<https://rmow.permitcentral.ca/Permit/GroupApply?groupId=3>). Resubmission of any Transportation Noise Study may be subject to a \$250 resubmission fee.

The applicant will be required to pay for a third-party review by an external Noise Consultant retained by the Region. The fee for this third-party review is \$4000 + HST (\$4520.00 total). Please submit payment for the third-party review along with the submitted noise study. Additional fees may apply depending on the scope of review required.

Payment can be made either by cheque payable to the Region of Waterloo or by contacting Ms. Peggy Walter at PWalter@regionofwaterloo.ca via other methods.

As the detailed design of the project has yet to be known, Regional staff require the applicant to enter into a development agreement to secure the completion of a Transportation and Stationary Noise Study as a condition of approval.

Site Plan (advisory):

The proponents are strongly recommended to undertake an environmental (transportation and stationary) noise study to assess the impacts of the environmental

noise and construct the buildings accordingly. This would avoid any retrofit required to the building; and complaints/liability claims/concerns as a result of the proposed development later.

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

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 for each application;
- 2) That prior to final approval, a licensed Archaeologist prepares an Archaeological Assessment on the lands to be severed and a copy of the Ministry of Heritage, Sport, Tourism and Culture Industries Acknowledgement letter(s) and the Assessment Report must be provided to Regional Staff to the satisfaction of the Region's Planning, Development and Legislative Services Department;
- 3) That prior to final approval, the Owner/Applicant enter into a registered development agreement to prepare a final Transportation and Stationary noise study to indicate to the Regional Municipality of Waterloo methods to be used to abate traffic and stationary noise levels for the subject lands and if necessary, shall enter into a registered development agreement with the Regional Municipality of Waterloo to provide for implementation of the accepted noise study attenuation measures.

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,



Melissa Mohr, MCIP, RPP
Senior Planner