

PROPOSED BY – LAW
_____ 2023
BY-LAW NUMBER ____
OF THE
CORPORATION OF THE CITY OF KITCHENER

(Being a by-law to amend By-law 85-1, as amended, known as
the Zoning By-law for the City of Kitchener
– 321 Courtland Ave. Developments Inc. – 263 and 321-325
Courtland Avenue East, 230 and 240 Palmer Avenue, and 30
Vernon Avenue

WHEREAS it is deemed expedient to amend By-law 85-1 for the lands specified above;
NOW THEREFORE the Council of the Corporation of the City of Kitchener enacts as
follows:

1. Schedule Numbers 118 and 119 of Appendix “A” to By-law Number 85-1 are hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 1 on Map No. 1, in the City of Kitchener, attached hereto, from General Industrial Zone (M-2) with Special Use Provisions 155U and 159U and Special Regulation Provision 1R to High Intensity Mixed Use Corridor Zone (MU-3) with Special Regulation Provisions 1R, 793R, 794R, 797R and Special Use Provision 484U.
2. Schedule Numbers 118 and 119 of Appendix “A” to By-law Number 85-1 are hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 2 on Map No. 1, in the City of Kitchener, attached hereto, from General Industrial Zone (M-2) with Special Use Provisions 155U and 159U and Special Regulation Provision 1R to High Intensity Mixed Use Corridor Zone (MU-3) with Special Regulation Provisions 793R, 795R, 797R and Holding Provision 105H .
3. Schedule Number 118 of Appendix “A” to By-law Number 85-1 is hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 3 on Map No. 1, in the City of Kitchener, attached hereto, from General Industrial Zone (M-2) with Special Use Provisions 155U and 159U and Special Regulation Provision 1R to High

Intensity Mixed Use Corridor Zone (MU-3) with Special Regulation Provisions 1R, 793R, 796R, 797R and Holding Provision 105H.

4. Schedule Number 118 of Appendix "A" to By-law Number 85-1 is hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 4 on Map No. 1, in the City of Kitchener, attached hereto, from General Industrial Zone (M-2) with Special Use Provisions 155U and 159U and Special Regulation Provision 1R to Public Park Zone (P1) with Special Regulation Provision 1R.
5. Schedule Numbers 118 and 119 of Appendix "A" to By-law Number 85-1 are hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 5 on Map No. 1, in the City of Kitchener, attached hereto, from General Industrial Zone (M-2) with Special Use Provisions 155U and 159U and Special Regulation Provision 1R to Residential Nine Zone (R-9) with Special Regulation Provisions 1R, 793R, 798R, 799R and Holding Provision 105H.
6. Schedule Numbers 118 and 119 of Appendix "A" to By-law Number 85-1 are hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 6 on Map No. 1, in the City of Kitchener, attached hereto, from General Industrial Zone (M-2) with Special Use Provisions 155U and 159U and Special Regulation Provision 1R to Residential Nine Zone (R-9) with Special Regulation Provisions 1R, 793R, 798R, 800R and Holding Provision 105H.
7. Schedule Number 119 of Appendix "A" to By-law Number 85-1 is hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 7 on Map No. 1, in the City of Kitchener, attached hereto, from General Industrial Zone (M-2) with Special Use Provisions 155U and 159U and Special Regulation Provision 1R to Residential Nine Zone (R-9) with Special Regulation Provisions 1R, 793R, 798R and Holding Provision 105H.
8. Schedule Number 118 of Appendix "A" to By-law Number 85-1 is hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 8 on Map No. 1, in the City of Kitchener, attached hereto, from General Industrial Zone (M-2) to

Residential Nine Zone (R-9) with Special Regulation Provisions 1R, 793R, 798R and Holding Provision 105H.

9. Schedule Number 119 of Appendix "A" to By-law Number 85-1 is hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 9 on Map No. 1, in the City of Kitchener, attached hereto, from General Industrial Zone (M-2) with Special Use Provisions 155U and 159U and Special Regulation Provision 1R to Residential Eight Zone (R-8) with Special Regulation Provisions 1R, 801R and Holding Provision 106H.
10. Schedule Number 119 of Appendix "A" to By-law Number 85-1 is hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 10 on Map No. 1, in the City of Kitchener, attached hereto, from General Industrial Zone (M-2) with Special Regulation Provision 1R to Residential Five Zone (R-5) with Special Regulation Provision 1R and Holding Provision 106H.
11. Schedule Numbers 118 and 119 of Appendix "A" to By-law Number 85-1 are hereby further amended by incorporating additional zone boundaries as shown on Map No. 1 attached hereto.
12. Appendix "D" to By-law 85-1 is hereby amended by adding Section 793 thereto as follows:

"793. Notwithstanding Sections 5.6A.1, 5.6A.3, 5.6A.4, 6.1.1.1a)i), 6.1.2a), 6.1.2b)ii)A)b), 6.1.2b)vi), 6.1.2b)vii), 6.1.2d), 43.2.3 and 55.2.1 of this By-law, on the lands zoned Residential Nine Zone (R-9) and High Intensity Mixed Use Corridor Zone (MU-3), shown as affected by this subsection on Schedule Numbers 118 and 119 of Appendix "A", the following special regulations shall apply:

 - a) Balconies may be ground supported with columns;
 - b) Balconies, raised patios, terraces and porches with and without railings shall be permitted with no minimum setbacks to lot lines;
 - c) Airshafts associated with underground parking structures and heat pumps located on balconies shall not be subject to minimum setbacks;
 - d) Minimum vehicle parking space requirements shall be as follows:
 - i. Multiple Dwelling:

- a. 0.165 spaces per dwelling unit for dwelling units <51.0 square metres in area, provided however that this does not apply to more than 40% of all dwelling units on lots affected by this subsection on Schedule Numbers 118 and 119 of Appendix “A”;
 - b. 0.8 spaces per dwelling unit for dwelling units >51.0 square metres in area;
 - ii. Visitor parking for Multiple Dwellings: 12.5% of parking spaces required by provision d) i);
 - iii. Non-Residential uses: 1 space per 50 square metres of gross floor area;
 - iv. All parking spaces required for visitor parking and non-residential uses shall be shared and be unassigned.
- e) A minimum of 20 percent of the parking spaces required by provision d) i) for multiple dwellings shall be designed to permit the future installation of electric vehicle supply equipment.
- f) Minimum bicycle parking requirements for Multiple Dwellings shall be:
- i. 0.5 “Class A” Bicycle Parking Stalls per dwelling unit; and
 - ii. 6 “Class B” Bicycle Parking Stalls where more than 20 dwelling units are on a lot.
- g) Off-street parking facilities required by provisions d), e) and f):
- i. May be located on any lot shown as affected by this subsection on Schedule Numbers 118 and 119 of Appendix “A” and shall not require an off-site parking agreement; and
 - ii. May be permitted to extend beyond a property line provided that all portions of the parking space are located on lots shown as affected by this subsection on Schedule Numbers 118 and 119 of Appendix “A”.
- h) For the purposes of provision e), the definitions of “electric vehicle supply equipment” per Section 3 of City of Kitchener Zoning By-law 2019-051 shall apply.
- i) For the purposes of provision f) the definitions of “Class A’ Bicycle Parking” and “Class B’ Bicycle Parking” per Section 3 of City of Kitchener Zoning By-law 2019-051 shall apply and such spaces shall have a minimum width of 0.4

metres, length of 1.8 metres and vertical clearance of 1.2 metres and may be stacked.

j) Geothermal Energy Systems shall be prohibited.”

13. Appendix “D” to By-law 85-1 is hereby amended by adding Section 794 thereto as follows:

“794. Notwithstanding Sections 6.1.1.1a)iv), 6.1.1.1a)v), 55.2.1 and 55.2.2.1 of this By-law, on the land zoned High Intensity Mixed Use Corridor Zone (MU-3), shown as affected by this subsection on Schedule Numbers 118 and 119 of Appendix “A”, the following special regulations shall apply:

- a) A 3.0 metre landscape strip shall not be required adjacent to the Olde Fashioned Way street line;
- b) Parking and loading spaces may be located within 4.5 metres of the Olde Fashioned Way street line;
- c) Minimum and Maximum Yard regulations shall not apply to buildings existing at the time the MU-3 Zone was applied to the land;
- d) Additions to buildings existing at the time the MU-3 Zone was applied to the land shall not be closer to the street line than the building as it existed at the time the MU-3 Zone was applied to the land;
- e) Maximum Yard regulations shall not apply to new buildings where the yard contains a publicly-accessible landscaped area;
- f) No minimum Primary Ground Floor Façade width shall apply; and
- g) The maximum Gross Floor Area of Retail Space shall be 4,000 square metres.”

14. Appendix “D” to By-law 85-1 is hereby amended by adding Section 795 thereto as follows:

“795. Notwithstanding Section 55.2.1 of this By-law, on the land zoned High Intensity Mixed Use Corridor Zone (MU-3), shown as affected by this subsection on Schedule Numbers 118 and 119 of Appendix “A”, the following special regulations shall apply:

- a) The minimum rear yard (from the Kent Avenue street line) shall be 1.5 metres;
- b) The minimum setback from a lot line of a corner visibility triangle shall be 0.0 metres;
- c) For any portion of a building greater than 18.5 metres in height, the minimum setback shall be 12.0 metres from the Courtland Avenue street line;

- d) Building height shall mean the vertical distance between the highest finished grade level at the perimeter of the building and the uppermost point of the building. Antennae, chimneys, spires, cupolas, elevator penthouses, parapets, railings, outdoor structures, wind mitigation devices, landscaping elements or other similar features shall be disregarded in calculating building height.
- e) The maximum building height shall be 35.0 metres.”

15. Appendix “D” to By-law 85-1 is hereby amended by adding Section 796 thereto as follows:

“796. Notwithstanding Sections 5.23, 55.2.1 and 55.2.2.2 of this By-law, on the land zoned High Intensity Mixed Use Corridor Zone (MU-3), shown as affected by this subsection on Schedule Number 118 of Appendix “A”, the following special regulations shall apply:

- a) Building height shall mean the vertical distance between the highest finished grade level at the perimeter of the building and the uppermost point of the building. Antennae, chimneys, spires, cupolas, elevator penthouses, parapets, railings, outdoor structures, wind mitigation devices, landscaping elements or other similar features shall be disregarded in calculating building height.
- b) The maximum building height shall be 60.0 metres;
- c) Dwelling units, lodging houses and residential care facility uses shall be required to provide one of the following along the lot line of the railway right-of-way:
 - i. a berm
 - ii. a combination berm and fence; or
 - iii. a crash wall.
- d) The minimum rear yard shall be:
 - i. 3.0 metres for buildings or portions thereof containing dwelling units, lodging houses and residential care facility uses; and
 - ii. 0.0 metres for all other uses.
- e) For any portion of a building greater than 18.0 metres in height, the minimum setbacks shall be:
 - i. 12.0 metres from the front (Olde Fashioned Way) lot line;
 - ii. 28.0 metres from the exterior side (Borden Avenue) lot line;
 - iii. 6.0 metres from the side lot line; and
 - iv. 15.0 metres from the rear lot line.

- f) The minimum ground floor building height for any building with street line façade shall be 4.5 metres.
- g) The minimum non residential gross floor area shall be 800 square metres.”

16. Appendix “D” to By-law 85-1 is hereby amended by adding Section 797 thereto as follows:

“797. Notwithstanding Section 55 of this By-law, on the land zoned High Intensity Mixed Use Corridor Zone (MU-3), shown as affected by this subsection on Schedule Numbers 118 and 119 of Appendix “A”, the following special regulations shall apply:

- a) FSR shall be obtained when the total Building Floor Area of all buildings on all lots subject to this subsection is divided by the total lot area of all lots subject to this subsection;
- b) The electric vehicle parking space provisions per Section 5.8b) through 5.8d) and 5.8f) and corresponding relevant definitions in Section 3 of the City of Kitchener Zoning By-law 2019-051 shall apply.
- c) Minimum Bicycle Parking for non-residential uses shall be provided in accordance with Section 5.5a), b), d) and e) of City of Kitchener Zoning By-law 2019-051 and at the minimum rates applicable to MIX Zones in Table 5.5 of Zoning By-law 2019-051.
- d) Electric vehicle parking facilities required by provision b) and bicycle parking facilities required by provision c) may be located on any lot shown as affected by this subsection on Schedule Number 118 of Appendix “A” and shall not require an off-site parking agreement.
- e) For the purposes of provision c) the definitions of “Class A’ Bicycle Parking” and “Class B’ Bicycle Parking” per Section 3 of City of Kitchener Zoning By-law 2019-051 shall apply and such spaces shall have a minimum width of 0.4 metres, length of 1.8 metres and vertical clearance of 1.2 metres and may be stacked.”

17. Appendix “D” to By-law 85-1 is hereby amended by adding Section 798 thereto as follows:

“798. Notwithstanding Sections 5.23, 6.1.1.1a)iv), 6.1.1.1d), 6.1.1.2a), 43.2.1 and 43.2.3 of this By-law, on the land zoned Residential Nine Zone (R-9), shown as affected by this subsection on Schedule Numbers 118 and 119 of Appendix “A”, the following special regulations shall apply:

- a) The following FSR regulations shall apply:
 - i. FSR shall be obtained when the total Building Floor Area of all buildings on all lots subject to this subsection is divided by the total lot area of all lots subject to this subsection;
 - ii. The maximum FSR shall be 7.8;
- b) Minimum landscaped area shall be measured relative to the total lot area of all lots subject to this subsection and may include a privately owned public space and multi-use trail;
- c) The following building height regulations shall apply:
 - i. Building height shall mean the vertical distance between the highest finished grade level at the perimeter of the building and the uppermost point of the building. Antennae, chimneys, spires, cupolas, elevator penthouses, parapets, railings, outdoor structures, wind mitigation devices, landscaping elements or other similar features shall be disregarded in calculating building height;
 - ii. The maximum building height shall be 35.0 metres within 100 metres of the Courtland Avenue street line;
 - iii. No maximum building height shall apply for buildings located greater than 100 metres from the Courtland Avenue Street line.
- d) The minimum yards shall be:
 - i. 0.0 metres to a lot line of a lot affected by this subsection or zoned Residential Eight Zone (R-8) or Residential Five Zone (R-5);
 - ii. 3.0 metres to a lot line of a lot zoned Public Park Zone (P-1) or General Industrial Zone (M-2);
 - iii. 3.0 metres to the Vernon Avenue street line;
 - iv. 7.5 metres to the Palmer Avenue street line;
 - v. 1.0 metre to the Olde Fashioned Way street line;
 - vi. 18.0 metres to the Stirling Avenue street line;
 - vii. 15.0 metres to the lot line of the railway right-of-way for buildings or portions thereof containing dwelling units, lodging house or residential care facility uses;
 - viii. 0.0 metres to the lot line of the railway right of way for buildings or portions thereof containing other uses;

- e) The minimum yards per provision d) shall not apply to floors of a building not containing habitable space.
- f) Development containing dwelling units, lodging houses and residential care facility uses shall be required to provide one of the following along the lot line of the railway right-of-way:
 - i. a berm
 - ii. a combination berm and fence; or
 - iii. a crash wall.
- g) The following parking regulations shall apply:
 - i. Parking and loading spaces may be located between a building façade and the Stirling Avenue street line;
 - ii. A visual barrier shall not be required where a parking lot is situated on a lot which abuts a Residential Zone; and
 - iii. A 3-metre landscape strip shall not be required adjacent to the Vernon Street street line.

18. Appendix "D" to By-law 85-1 is hereby amended by adding Section 799 thereto as follows:
"799. Notwithstanding Sections 6.1.1.1a)iv), 6.1.1.1d)i) and 6.1.1.1d)ii) of this By-law, on the land zoned Residential Nine Zone (R-9), shown as affected by this subsection on Schedule Numbers 118 and 119 of Appendix "A", the following special regulations shall apply:
 - a) Parking and loading spaces may be located between an above-grade parking garage façade and the Olde Fashioned Way street line;
 - b) The minimum setback to parking spaces from the Olde Fashioned Way street line shall be 1.0 metre; and
 - c) A minimum 1.0 metre landscape strip shall be required between surface parking spaces and the Olde Fashioned Way street line."
19. Appendix "D" to By-law 85-1 is hereby amended by adding Section 800 thereto as follows:
"800. Notwithstanding Section 43.2.3 of this By-law, on the land zoned Residential Nine Zone (R-9), shown as affected by this subsection on Schedule Numbers 118 and 119 of Appendix "A", the minimum lot width shall be 12.0 metres."
20. Appendix "D" to By-law 85-1 is hereby amended by adding Section 801 thereto as follows:

- “801. Notwithstanding Sections 42.2.5 and 42.2.6 of this By-law, on the land zoned Residential Eight Zone (R-8), shown as affected by this subsection on Schedule Number 119 of Appendix “A”, the following special regulations shall apply:
- a) The minimum side yard shall be 4.0 metres except from a lot zoned R-8 where no minimum side yard shall apply; and
 - b) The minimum rear yard shall be 3.5 metres.
 - c) The maximum building height for multiple dwellings and Street Townhouse Dwellings shall be 13.0 metres
 - d) Geothermal Energy Systems shall be prohibited.”

21. Appendix “E” to By-law 85-1 is hereby amended by adding Section 484 thereto as follows:

“484. Notwithstanding Section 55.1 of this By-law, on the lands zoned High Intensity Mixed Use Corridor Zone (MU-3), shown as affected by this subsection on Schedule Numbers 118 and 119 of Appendix “A” the following special use provisions shall apply:

- a) The following uses shall also be permitted:
 - Advanced Manufacturing Establishment
 - Computer, Electronic, Data Processing, or Server Establishment
 - Conference, Convention, or Exhibition Facility
 - Brewpub
 - Research and Development Establishment.
- b) For the purpose of provision a), the definitions of Section 3 of the City of Kitchener Zoning By-law 2019-051 shall apply.
- c) The following uses shall not be permitted:
 - Additional Dwelling Unit
 - Day Care Facility
 - Duplex Dwelling
 - Dwelling Unit
 - Lodging House
 - Multiple Dwelling
 - Residential Care Facility
 - Semi-Detached Duplex Dwelling
 - Semi-Detached Dwelling

- Single Detached Dwelling
- Street Townhouse Dwelling”

22. Appendix “F” to By-law 85-1 is hereby amended by adding Section 105H thereto as follows:

“105. Notwithstanding Sections 43.1 and 55.1 of this By-law, on the lands zoned Residential Nine Zone (R-9) and High Intensity Mixed Use Corridor Zone (MU-3), shown as affected by this subsection on Schedule Numbers 118 and 119 of Appendix “A”:

a) The following sensitive uses shall not be permitted until this Holding Provision has been removed by By-law:

- Additional Dwelling Unit
- Day Care Facility
- Duplex Dwelling
- Dwelling Unit
- Lodging House
- Multiple Dwelling
- Residential Care Facility
- Semi-Detached Duplex Dwelling
- Semi-Detached Dwelling
- Single Detached Dwelling
- Street Townhouse Dwelling

b) This Holding Provision shall not be removed until the City of Kitchener is in receipt of a letter from the Regional Municipality of Waterloo advising that:

- i. A Record of Site Condition (RSC) in accordance with O. Reg. 153/04, as amended, has been filed with the Ministry of Environment, Conservation and Parks (“the Ministry”) Environmental Site Registry, and the Regional Municipality of Waterloo is in receipt of the RSC and the Ministry’s Acknowledgement letter.

c) This Holding Provision may be removed in phases as the detailed design of each building is known.”

23. Appendix “F” to By-law 85-1 is hereby amended by adding Section 106H thereto as follows:

“106. Notwithstanding Section 39.1 and 42.1 of this By-law, on the lands zoned Residential Five Zone (R-5) and Residential Six Zone (R-8), shown as affected by this subsection on Schedule Number 119 of Appendix “A”:

a) The following sensitive uses shall not be permitted until this Holding Provision has been removed by By-law:

- Additional Dwelling Unit
- Duplex Dwelling
- Lodging House
- Multiple Dwelling
- Residential Care Facility
- Semi-Detached Duplex Dwelling
- Semi-Detached Dwelling
- Single Detached Dwelling
- Street Townhouse Dwelling

b) This Holding Provision shall not be removed until the City of Kitchener is in receipt of a letter from the Regional Municipality of Waterloo advising that:

- i. A Record of Site Condition (RSC) in accordance with O. Reg. 153/04, as amended, has been filed with the Ministry of Environment, Conservation and Parks (“the Ministry”) Environmental Site Registry, and the Regional Municipality of Waterloo is in receipt of the RSC and the Ministry’s Acknowledgement letter.

c) This Holding Provision may be removed in phases as the detailed design of each building is known.”

24. This By-law shall become effective only if Official Plan Amendment No. ____ (263 and 321-325 Courtland Avenue East, 230 and 240 Palmer Avenue, and 30 Vernon Avenue) comes

into effect, pursuant to Section 24(2) of The Planning Act, R.S.O. 1990, c. P.13, as amended.

PASSED at the Council Chambers in the City of Kitchener this day of ,2023.

Mayor

Clerk