

Staff Report



Development Services Department

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REPORT TO: Planning and Strategic Initiatives Committee

DATE OF MEETING: April 22, 2024

SUBMITTED BY: Garrett Stevenson, Director of Development & Housing Approvals,
519-741-2200 ext. 7070

PREPARED BY: Brian Bateman, Senior Planner, 519-741-2200 ext. 7869

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: March 22, 2024

REPORT NO.: DSD-2024-061

SUBJECT: 135-161 Jackson Avenue and 135 Brentwood Avenue
Official Plan Amendment Application OPA24/002/J/BB
Zoning By-law Amendment Application ZBA24/002/J/BB Sanjiv
Shukla (1000190771 ONTARIO INC.)

RECOMMENDATION:

That Official Plan Amendment Application OPA24/002/J/BB for 1000190771 ONTARIO INC. be adopted, in the form shown in the Official Plan Amendment attached to Report DSD-2024-061 as Attachment 'A', and accordingly forwarded to the Region of Waterloo for approval;

That Zoning By-law Amendment Application ZBA24/002/J/BB requesting to amend Zoning By-law 2019-051, for 1000190771 ONTARIO INC. be approved in the form shown in the Proposed 'Proposed By-law', and 'Map No. 1' attached to Report DSD-2024-061 as Attachment 'B'; and further;

That the Urban Design Brief, prepared by MHBC and attached to Report DSD-2024-061 as Attachment 'C', be adopted, and that staff be directed to apply the Urban Design Brief through the Site Plan Approval process.

REPORT HIGHLIGHTS:

- The purpose of this report is to evaluate and provide a planning recommendation regarding Official Plan and Zoning By-law Amendment applications for the properties located at 135-161 Jackson Avenue and 136 Brentwood Avenue.
- It is Planning staff's recommendation that these applications be approved. The proposed applications represent an opportunity to redevelop lands with 120 units, where the majority of the lands (135-161 Jackson Avenue) are presently zoned 'RES-5', a zone which already permitting multiple dwelling (i.e. stacked townhouse units).
- An Official Plan Amendment is requested for increased building height and Floor Space Ratio in the Low Rise Residential land use designation.
- The owner is requesting a site-specific regulation to allow for a building height of 12.5 metres, a maximum Floor Space Ratio (FSR) of 1.0, and minimum interior southerly side yard

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setback of 7.5 metres, a reduced rear yard setback of 6 metres, and a parking rate of 1.02 parking spaces per dwelling unit.

- The increased building height is a result of the owner wishing to raise the basement level an additional 1.5 metres (5 feet) in elevation to be able to provide more natural lighting into basement units.
- Through the review of the applications, changes were made to the development proposal in response to community and staff comments:
 - A tree savings area has been increased in size as a result of increasing side yard setback and shifting/ re-orientation of one of the townhouse blocks, proposed along Jackson Avenue, away from an existing wooded area along the northern property boundary.
 - The setback from the rear lot line of adjacent Brentwood properties has been increased from 3 metres as-of-right to 7.5 metres, and by further 1.8 metre step back has been incorporated for the top level to further mitigate overlook, height, and massing concerns.
 - Six (6) existing detached dwellings are proposed to be demolished. Renters have long term leases and have been made aware of the proposed re-development.
 - Total dwelling unit numbers have decreased from 121 to 120.
- Community engagement included:
 - circulation of a preliminary notice to property owners within 240 metres of the subject site;
 - installation of a large billboard notice sign on the property;
 - a neighbourhood meeting held in February 2024;
 - an informal meeting with residents on March 10, 2024;
 - an on-site meeting with residents on March 26, 2024;
 - follow up one-on-one correspondence with members of the public who responded to the circulation or saw the billboard sign;
 - notice advising of the statutory public meeting was circulated to all property owners within 240 metres of the subject site, and those who responded to the preliminary circulation; and
 - notice of the public meeting was published in The Record on March 28, 2024.
- This report supports the delivery of core services.
- These applications were deemed complete on January 10, 2024. The Applicant can appeal these applications for non-decision after May 9, 2024.

EXECUTIVE SUMMARY:

1000190771 Ontario Inc. is seeking Official Plan and Zoning By-law Amendments to grant site specific amendments that would allow for increased building height and Floor Space Ratio (FSR), increased side yard setbacks, a decreased rear yard setback and a reduction in number of required parking spaces to allow the development of 118 multiple dwellings (stacked townhomes) and two street fronting townhouses with 121 surface parking spaces on six existing lots within the Eastwood Neighbourhood. These are addressed municipally as 135-161 Jackson Avenue and 136 Brentwood Avenue. Two vehicular accesses are proposed: one off Jackson Avenue and a second one is required for an emergency service access off Brentwood Avenue. Full municipal services will be provided to service the development proposal through the Brentwood Avenue connection.

The subject property is identified as 'Community Areas' on the City's Urban Structure (Map 2 - City of Kitchener Official Plan) and designated as 'Low Rise Residential' (Map 3 - City of Kitchener Official Plan). The lands addressed as 135-161 Jackson Avenue are zoned 'Low Rise Residential Five Zone (RES-5)' and the lands addressed as 136 Brentwood Avenue are zoned 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051. The existing 'RES-5' zoning already permits multiple dwellings (stacked townhomes) as-of-right. These lands have been zoned to permit multiple dwellings, cluster or stacked townhouses, since 1994. Staff recommends that the applications be approved.

REPORT:

The subject lands are irregularly shaped and comprise six (6) consolidated parcels of land each containing a single detached dwelling and accessory structures, resulting in a total area of 11,337.5 m² (1.13 ha) in a predominantly low rise residential neighbourhood. They are located north-east of the intersection of Brentwood Avenue and Jackson Avenue, with approximately 95 metres of frontage along Jackson Avenue and approximately 15.25 metres of frontage along Brentwood Avenue. There is a significant grade change of approximately 5 metres across the site. For zoning purposes, Jackson Avenue is considered the front lot line, the opposite lot line closest to Montgomery Road is the rear lot line and all other lot lines are considered interior lots lines. The location of the subject lands is illustrated in Figure 1.



Figure 1 – Aerial Photo of Subject and Surrounding Lands

The surrounding area is characterized by a mix of low rise residential uses including single detached, semi-detached and three-storey multiple dwellings. Eastwood Collegiate Institute is located to the south, as are commercial uses along Weber Street, while Montgomery Park and the Conestoga Parkway are located to the east.

The proposed development (Figure 2) that was submitted with the application to the City included the construction of five (5) stacked townhouse blocks with 118 units and two (2) street townhouse units, resulting in a total of 120 units. Building heights are proposed at 12.5 metres (3.5 storeys) at the highest grade elevation and 13.75 metres (4 storeys) at the lowest grade elevation opposite the rear of the Brentwood properties. The owner has requested a height increase to raise the

basement level an additional 1.5 metres (5 feet) in elevation to be able to provide more natural lighting into basement units. Due to an increase in height and the slope of the land, more above ground building area is exposed, resulting in an increased Floor Space Ratio to 1.0 (a measure of all floor area above grade on a lot). It is important to note that the requested increases in height and FSR do not translate in additional units being proposed that could otherwise be built if the basement level was lowered and height met the as-of-right regulation of 11 metres. Moreover, given the slope, at the lowest grade elevation building height can be 12.1 metres within 3 metres of the common property line with Brentwood properties under the as-of-right regulations in the 'RES-5' zone. Building Height means, "the vertical distance between the highest elevation of the finished ground immediately surrounding the perimeter of the building and the uppermost point of the building. For all uses except a single detached dwelling with or without additional dwelling unit(s) (attached), at no point shall the vertical distance between the lowest elevation of the finished ground immediately surrounding the perimeter of the building and the uppermost point of the building exceed 110% of the maximum building height in the applicable zone".



Figure 2 – Initial Conceptual Site Plan, January 2024

Through the circulation of the application there has been several positive revisions made to plan (see Figure 3) in response to both staff and resident comments. These include:

- Upper storey step backs provided to transition the built form into the neighborhood.
- Street fronting townhouse typology without individual driveway access points provide a complimentary built form with very few disruptions to the Jackson Avenue streetscape.
- Built form is facing Jackson Avenue to activate the street front and reduce visibility to internal surface parking.

- Building façades complimentary to the neighborhood while remaining modern in appearance. Materials such as red brick masonry and a warm colour palette are proposed to be utilized.
- Lower-level storeys sunken into grade to decrease building height appearance at grade.
- Functioning rear yard setbacks sufficient to provide sensitive transition, particularly to Brentwood properties, and landscaping/tree planting between property lines and buildings.
- Parking is serviced well with pedestrian connections adjacent which lead in and out of the site.
- An on-site amenity space on site strategically placed to maximize tree preservation, centrally located with oversight from adjacent buildings and is appropriate in size based on urban design manual calculation requirement.
- Landscape areas sufficient to provide required plantings adjacent to the street, offset property lines and within amenity area.

A second access off Brentwood Avenue is proposed. This access splits vehicle movements to/from the site, allows for a servicing connection, and ensures a secondary emergency access in the event of one of roads are closed. Both sanitary and storm connections are also required through the Brentwood access to service the development.

The owner will be required to obtain Site Plan Approval to facilitate the development of a multiple residential proposal. Final site details will be reviewed through the site plan process.

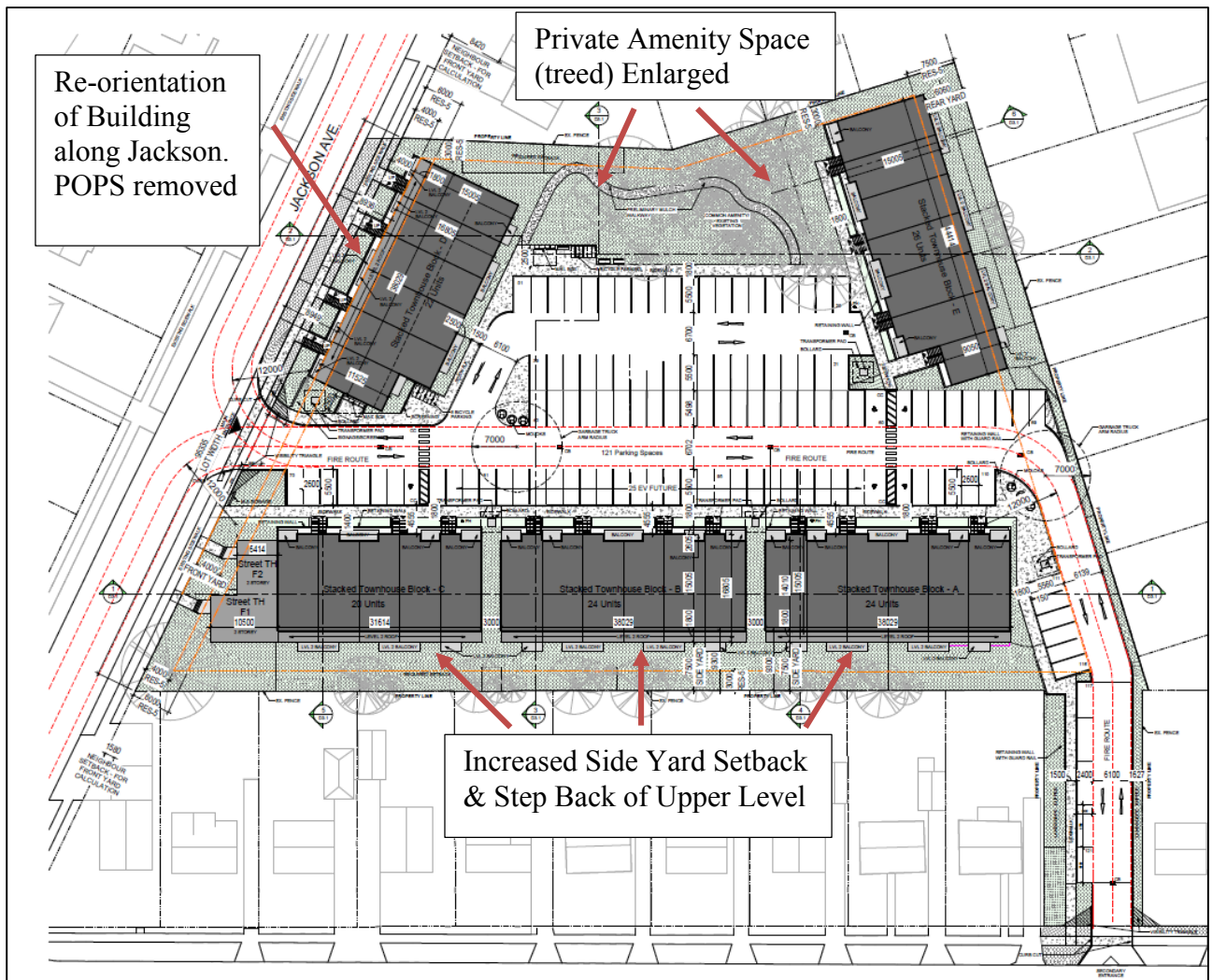


Figure 3 – Revised Conceptual Site Plan, March 2024



Figure 4 – Proposed Renderings (Brentwood view)
Note – 1.8m step back of upper level with no patios

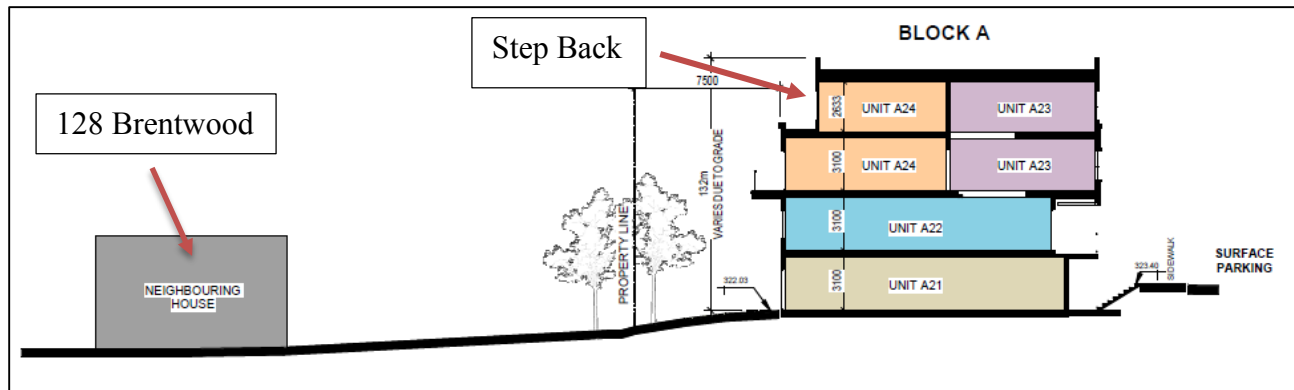


Figure 5 – Cross-Section Showing Relationship of the Proposed Building to Brentwood Homes (Note: Step back of the top level)

As noted earlier and to reiterate, building height is measured from the highest grade elevation. For purposes of the by-law attached to this report, a maximum building height is noted from both the highest and lowest grade elevation of the property.

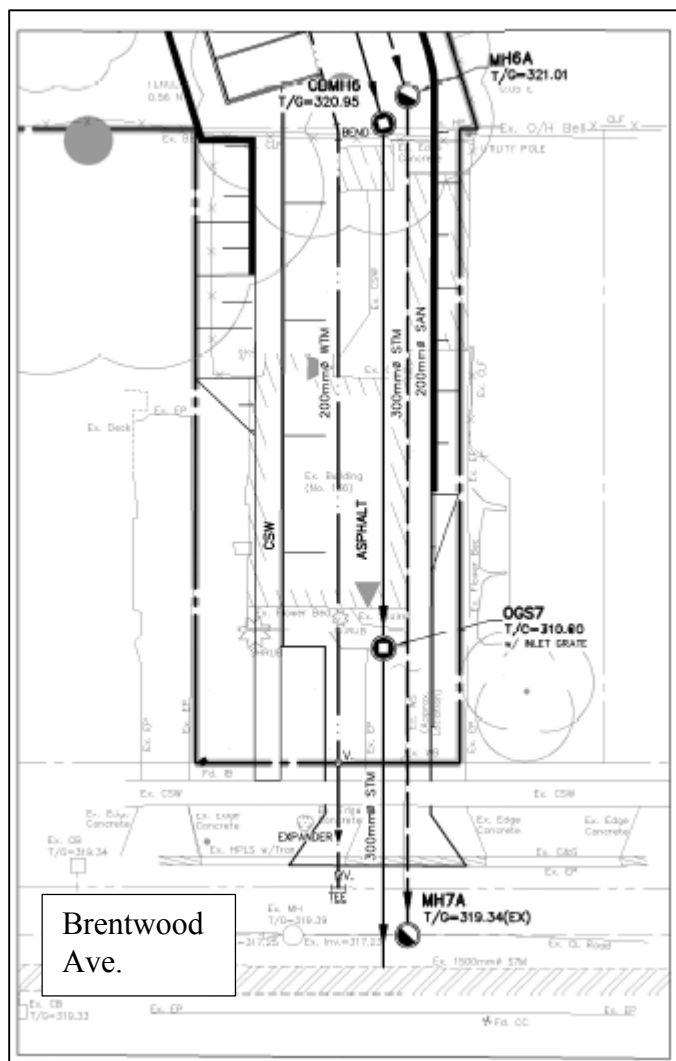


Figure 6 – Proposed Servicing through 136 Brentwood Avenue

Planning Analysis:

Proposed Official Plan Amendment

To accommodate the proposed development, an amendment to the Official Plan is being requested to allow an increase in the maximum permitted Floor Space Ratio (FSR) and building height in the 'Low Rise Residential' land use designation.

In this designation, the City's Official Plan states that the maximum permitted FSR is 0.6. Policy 15.D.3.11 states that site-specific increases to allow up to a maximum FSR of 0.75 may be considered without the need for an OPA, where it can be demonstrated that the increase is compatible and meets the general intent of the policies of the Official Plan.

Building height in the OP is capped at 11 metres and 3 storeys for lands not having frontage on a Regional Road or City Arterial Street.

- 15.D.3.12. No building will exceed 3 storeys or 11 metres in height, at the highest grade elevation. Relief from the building height may be considered for properties with unusual grade conditions and for buildings and/or structures with increased floor to ceiling heights and architectural features provided the increased building height is compatible with the built form and physical character of the neighbourhood.
- 15.D.3.13. Notwithstanding Policy 15.D.3.12, a maximum building height of 4 storeys or 14 metres, at the highest grade elevation, whichever is the lesser, may be permitted on lands having primary frontage on to a Regional Road or City Arterial Street.

Given the sloping nature of the lands and grade change across the site and the proposed increase of building height, the redevelopment of the subject lands will require an OPA to permit a FSR of 1.0, and a building height greater than 11 metres. It is important to note that the OPA is not requesting a change of land use but rather seeking a site-specific policy to permit an increase in both FSR to 1.0 from 0.6 and height to 12.5 metres from 11 metres.

Provincial, Regional, and City planning policy provide guidance that must be considered when evaluating changes in land use permissions as discussed below.

Planning Act, R.S.O. 1990, c. P.13 25.

Section 2 of the Planning Act establishes matters of provincial interest and states that the Minister, the council of a municipality, a local board, a planning board and the Tribunal, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as,

- d) The conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;
- f) The adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- g) The minimization of waste;
- h) The orderly development of safe and healthy communities;
- j) The adequate provision of a full range of housing, including affordable housing;
- p) The appropriate location of growth and development;
- q) The promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians;
- r) The promotion of built form that,
 - (i) Is well-designed,
 - (ii) Encourages a sense of place, and

- (iii) Provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;
- s) The mitigation of greenhouse gas emissions and adaptation to a changing climate.

These matters of provincial interest are addressed and are implemented through the Provincial Policy Statement, 2020. The City's Official Plan is the most important vehicle for the implementation of the Provincial Policy Statement, 2020 and to ensure Provincial policy is adhered to.

The Ministry of Municipal Affairs and Housing is proposing an integrated province-wide land use planning policy document, potentially replacing the Provincial Policy Statement and A Place to Grow: Growth plan for the Greater Golden Horseshoe, with a singular Provincial Planning Statement (PPS) which is in draft form and not in effect at the time this report was prepared.

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 (d) of the PPS promotes densities for new housing which efficiently use land, resources, infrastructure, and public service facilities. The PPS 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 proposed applications will contribute to an appropriate mix of low rise housing types within the context of the surrounding neighbourhood. The subject lands are within an existing neighbourhood with adequate servicing capacity, road network capacity, and other required infrastructure and therefore represents a cost-effective infill project that minimizes land consumption and servicing costs. There are a variety of low-rise residential uses throughout the immediate areas. Multiple dwellings are currently permitted in the Official Plan and Zoning By-law for these properties. Based on the above, staff is of the opinion that this proposal is in conformity with the PPS.

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

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.

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.

Policy 2.2.1.4(c) This plan will support the achievement to provide a diverse range and mix of housing options within the city.

The proposed multiple dwelling residential development will provide a greater mix of housing types in the neighbourhood. Planning staff is of the opinion that the development proposal conforms to the Growth Plan.

Regional Official Plan (ROP):

The subject lands are located in the “Urban Area” and designated “Built-Up Area” on Schedule 3a of the Regional Official Plan (ROP). Permitted uses of the Urban Area and Built-Up Area in the ROP include residential uses among others. In addition, the subject lands are designated ‘Low Rise Residential’ in the City of Kitchener Official Plan. The Low Rise Residential designation permits residential uses.

The ROP outlines a hierarchy of development based on Strategic Growth Areas, which include Urban Growth Centres, Major Transit Station Areas, Urban Corridors and Urban Nodes followed by gentle intensification within the Built-Up Area. The subject lands are located in the Built-Up Area.

On April 11, 2023, the Minister of Municipal Affairs and Housing (MMAH) approved the Region of Waterloo’s Regional Official Plan Amendment (ROPA) No. 6 with modifications. Section 1.6 of the Regional Official Plan establishes the overview of the Regional Planning Framework and Section 2.B.1 and 2.C establish policies for the Urban System. Section 2.F of the Regional Official Plan establishes policies for annual intensification targets within the delineated Built-Up Area, which is set at 60% for the City of Kitchener. Furthermore, development in the Built-Up Area is intended to provide gentle density and other missing middle housing options that are designed in a manner that supports the achievement of 15-minute neighbourhoods.

An Environmental Noise report entitled “Road Traffic and Stationary Noise Impact Study, 135-161 Jackson Avenue, Kitchener” prepared by JJ Acoustic Engineering Ltd., dated October 30, 2023 has been received. The Region is requesting a Holding Provision until the updates to the noise study have been received and accepted by the Region.

Staff have incorporated this wording as part of a Holding provision in the Zoning By-law.

Regional comments are provided in Attachment ‘E’.

City of Kitchener Official Plan:

Urban Structure

The subject lands are identified as a ‘Community Areas’ in the City’s Urban Structure (Map 2). The planned function of Community Areas is to provide residential uses as well as non-residential supporting uses intended to serve the immediate residential areas. Community Areas may have limited intensification with development being sensitive and compatible with the character, form, and planned function of the surrounding context.

Land Use Designation & Proposed Site-Specific Amendment

The subject lands are designated ‘Low Rise Residential’ in the City’s Official Plan (Map 3). Low Rise Residential areas are intended to accommodate a full range of low-density housing types including single detached, semi-detached, townhouse, and low-rise multiple dwellings (i.e., stacked townhouses). The Low Rise Residential designation states that the City will encourage and support the mixing and integrating of innovative and different forms of housing to achieve and maintain a low-rise built form. No buildings shall exceed 3 storeys or 11 metres in height. However, policy 15.D.3.12 supports an increase in building height due to unusual slopes providing it is compatible with surrounding lands. An Official Plan Amendment is required to add a Specific Policy Area to permit a maximum Floor Space Ratio (FSR) of 1.0 and a maximum height of 12.5 metres, prior to any development occurring on the lands. To assess this request, Policy 15.D.3.3 of the Official Plan requires that re-development and/or intensification take into consideration the following:

- a) compatibility of building form with respect to massing, scale, design;
- b) the relationship of housing to adjacent buildings, streets and exterior areas;
- c) adequate and appropriate parking areas are provided on site; and,

d) adequate and appropriate amenity areas and landscaped areas are provided on site.

Provincial, Regional and City policy support the integration of ‘missing middle’ forms of housing (i.e. low rise multiples) in established residential areas. Kitchener has been a leader in that regard by having policies in its Official Plan since 1994 that encourage integrating various forms of low rise housing within its residential neighbourhoods. The majority of the subject lands, 135-161 Jackson Avenue, are already currently zoned ‘RES-5’ which already permit multiple dwellings up to 3 storeys and 11 metres in height. A multiple dwelling is therefore a compatible building form presently supported by policy and zoned accordingly. The use of the property is already established. The amendment proposes additional building height and FSR to improve the quality and compatibility of the built form with increased basement heights to allow for more natural light into the units and an increased setback and step back from the adjacent residential properties to support an appropriate transition. The re-design incorporates two key design elements to improve the scale and design and reduces the impact of height and massing. These are increased side yard setbacks and building step backs. For these reasons, the proposal satisfies the “compatibility” test.

The proposal is for multiple dwellings with a building height of 12.5 metres. Additional height is being requested to raise the basement level above grade so that natural light can penetrate basement units. By raising the height and due to the slope of the property, more above ground building floor area is exposed thus resulting in an increase Floor Space Ratio to 1.0. This triggers an application and public process. This allows staff the opportunity to assess the proposal for scale, massing and design. To that end, an increased side yard setback along with a step back of the top floor have been proposed. Buildings are oriented along Jackson Avenue to better address the streetscape. These measures are captured in the Urban Design Brief and will be implemented by zoning through the application of a Site Specific Provision.

As this is infill within an established neighbourhood, the relationship of the proposal to existing buildings is very important, particularly to existing one and one and half storey detached dwellings situated along Brentwood Avenue. These properties will directly interface with the development and be exposed to four storeys in their rear yards due to the slope of land. The owner has proposed a 6.9 metre side yard setback. Staff has assessed this request and has suggested that, given the height and massing proposed adjacent to affected Brentwood properties, the setback should be increased to 7.5 metres (typical rear yard setback) and a step back be incorporated as part of the building design.

Increasing the setback and incorporating a step back of the 4th floor will result in; improved building separation to better achieve a 45 degree angular plane which is an accepted design ‘best practice’; mitigating overlook into back yards and reducing building massing; and enhanced tree-savings as buildings are further away from root zones of existing trees situated along that edge thereby increasing their survivability. It should be recognized that the as-of-right zoning requires only a 3 metre side yard setback for a building height of 11 metres. Therefore, a 7.5 metre setback is a considerable improvement over the as-of-right condition. Staff is of the opinion a positive building relationship has been achieved with the latest re-design.

The owner is proposing 121 spaces for 120 dwelling units in addition to providing 130 Class ‘A’ and ‘B’ bicycle spaces. The area is served by several bus routes. Surface parking is situated internal to the site away from existing surrounding properties to minimize impact. Two vehicular access points are proposed to split the traffic entering/existing the site and to also allow access for emergency vehicles in event one of the accesses is blocked. For these reasons, staff is of the opinion that “adequate and appropriate” parking test is satisfied.

The owner had originally proposed a Privately Owned Park Space (POPS) adjacent to Jackson Avenue. Through the review, it was determined a POPS was not the preferred approach of Parks

staff. Alternatively, a private amenity space is now proposed internal to the site. It has a dual function of providing passive recreation for occupants while incorporating a many existing trees that are of intrinsic value to the neighbourhood. Staff is therefore satisfied there is appropriate amenity space provided on site.

As such, Planning staff is of the opinion that the requested Official Plan Amendment proposing an increase in height and FSR will facilitate a housing form that conforms with the Low Rise Residential land use designation in the City's Official Plan for reasons stated above.

Urban Design

The City is committed to achieving a high standard of urban design, architecture, and place-making to positively contribute to quality of life, environmental viability and economic vitality. Urban design is a vital component of city planning and goes beyond the visual and aesthetic character of individual buildings and considers the functionality and compatibility of development as a means of strengthening complete communities.

Urban Design policies in the 2014 Official Plan support creating visually distinctive and identifiable places, structures and spaces that contribute to a strong sense of place and community pride, a distinct character and community focal points that promote and recognize excellence and innovation in architecture, urban design, sustainable building design and landscape design.

The City requires a high-quality urban design of development applications. The subject lands have been designed in accordance with the policies in the Official Plan and with the principles of the Urban Design Manual. These are outlined in the attached Urban Design Brief and will be used to direct the development through a future site plan application. Some of the key highlights are high quality design and construction, transit supportive development, positive streetscape edge and enhanced landscape design. The proposed development requires site plan approval and will be subject to further review.

Housing

The City's primary objective with respect to housing in the Official Plan is to provide for an appropriate range, variety and mix of housing types and styles, densities, tenure, and affordability to satisfy the varying housing needs of our community through all stages of life. This low-rise multiple dwelling proposal is a "missing middle" housing type and provides an option that bridges the gap between high density residential towers and single detached dwellings. The proposed housing type is an important segment in Kitchener's housing continuum.

Policy 4.C.1.8 states that where special zoning regulations are requested, proposed, or required to facilitate residential intensification or a redevelopment of lands, the overall impact of the special zoning regulations will be reviewed, but not limited to the following to ensure, that:

- a) Any new buildings and any additions and/or modifications to existing buildings are appropriate in massing and scale and are compatible with the built form and the community character of the established neighbourhood.
- b) Where front yard setback reductions are proposed for new buildings in established neighbourhoods, the requested front yard setback should be similar to adjacent properties and supports and maintain the character of the streetscape and the neighbourhood.
- c) New additions and modifications to existing buildings are to be directed to the rear yard and are to be discouraged in the front yard and side yard abutting a street, except where it can be demonstrated that the addition and/or modification is compatible in scale, massing, design, and character of adjacent properties and is in keeping with the character of the streetscape.

- d) New buildings, additions, modifications, and conversions are sensitive to the exterior areas of adjacent properties and that the appropriate screening and/or buffering is provided to mitigate any adverse impacts, particularly with respect to privacy.
- e) The lands can function appropriately and not create unacceptable adverse impacts for adjacent properties by providing both an appropriate number of parking spaces and an appropriate landscaped/amenity area on the site.

Policy 4.C.1.9 states that residential intensification and/or redevelopment within existing neighbourhoods will be designed to respect existing character. A high degree of sensitivity to surrounding context is important in considering compatibility.

Policy 4.C.1.12 notes that the City favours a land use pattern which mixes and disperses a full range of housing types and styles both across the city as a whole and within neighbourhoods.

Policy 4.C.1.22 encourages the provision of a range of innovative housing types and tenures such as rental housing, freehold ownership and condominium ownership including common element condominium, phased condominium, and vacant land condominium, as a means of increasing housing choice and diversity.

Staff is of the opinion this proposal satisfies Section 4 Housing policies. The re-development proposal incorporates appropriate vegetation buffers and has an enhanced side yard setback to affected Brentwood Avenue properties to improve compatibility and mitigate impacts associated with proposed site-specific regulations for height and FSR.

Natural Heritage

The subject property is not of natural heritage significance and therefore do not require the submission of an Environmental Impact Statement. The subject properties do however contain trees and vegetation that are subject to the City's Tree Management policies. In that regard, an Arborist's report and Tree Management Plan were submitted and has been reviewed and accepted by staff. A tree savings area is proposed.

Transportation & Parking

As a parking reduction is being sought and are therefore subject to several policies such as: 1. To ensure adequate parking standards and regulations are in place and enforced; and 2. The City may consider adjustments to parking requirements for properties within an area or areas, where the City is satisfied that adequate alternative parking facilities are available, where developments adopt transportation demand management (TDM) measures or where sufficient transit exists or is to be provided and 3. To reduce parking space demand in support of active transportation and transit and potential redevelopment of surface parking lots especially in intensification areas.

In the opinion of staff, these lands are in walking distance to several public bus routes located on Weber Street, King Street and Ottawa Street. In addition to having access to public transportation, the applicant is proposing to add 124 Class 'A' and 6 'B' bicycle spaces providing alternate modes of transportation besides a vehicle. As such, staff is of the opinion the intent of the aforementioned policies are being achieved with this development proposal supporting a minor reduction from 1.1 to 1.02 parking spaces per dwelling unit.

Policy Conclusion

The proposed use of land is permitted in the Low Rise Residential land use designation in the Official Plan. The proposed amendment is more a function of ensuring the design is appropriate and compatible, serviceable and any impacts associated with increased FSR/height can be mitigated. The conceptual plan is functional and serviceable. Compatibility has been achieved with a 7.5 metre side yard setback to increase separation and incorporating of a step back to break up the massing and improve compatibility. Therefore, Planning staff are of the opinion that the

proposed Official Plan Amendment Application is consistent with policies of the Provincial Policy Statement, conforms to the Growth Plan for the Greater Golden Horseshoe, the Regional Official Plan, and the City of Kitchener Official Plan, and represents good planning.

Proposed Zoning By-law Amendment:

The majority of the subject lands, 135-161 Jackson Avenue, are currently zoned ‘Low Rise Residential Five Zone (RES-5)’. Multiple dwellings are a permitted use. The owner is requesting a Site Specific amendment for additional height and FSR permissions. This is reflected as Site-Specific Provision (339) in the By-law attached to this report.

The table below illustrates the zoning, parking, and bicycle regulations and whether the proposal complies. Justification is provided where a regulation is not being met and why. These are in bold.

Provision	RES-5	Proposed	Justification
Minimum Lot Area	495 m ²	2.4ha	Complies
Minimum Lot Width	19.0 m	147 m	Complies
Minimum/max. Front Yard Setback	*4.0 m/6.0m	6.0m	Complies
Minimum Interior Side Yard Setbacks	**3.0 m	Northerly Property Line: 3.0 m Southerly Property Line: 7.5 m	Complies and exceeds what would be required as-of-right
Minimum Rear Yard Setback	7.5 m	6.0m	<i>Site Specific Regulation Required</i> – given deep backyards of affected Montgomery Road properties that are zoned RES-5 and the fact this backs onto several existing 3 storey multiple dwellings, impact is considered minimal.
Maximum Height	***11.0 metres from highest grade to 12.1 to the lowest grade (definition of <i>height</i> allows for up to a 10% increase due to slope conditions)	12.5 metres from the highest grade and approximately 13.7 metres to the lowest grade – due to slope of property	<i>Site Specific Regulation Required</i> – see justification provided in the section of this report titled, Land Use & Proposed Site - Specific Amendment
Maximum Floor Space Ratio	0.6	1.0	Site Specific Regulation Required - additional above ground floor area due to increased height and slope of land contribute to an increase in FSR. To address the impact, the owner is proposing to increase the southerly side

			yard setback and incorporate building step backs. The effect is improved separation and relationship, reduced overlook and reduced massing.
Maximum Number of Storey's	3	3.5-4.0	Site Specific Regulation Required - see above
Minimum Landscaped Area	20%	32%	Complies
Minimum Combined resident & visitor Parking Rate	1.1	1.02 / unit	<i>Site Specific Regulation Required</i> – given proximity to several public transit routes and provision of 130 Class A & B bicycle spaces, staff can support a minor reduction at this location.
Maximum Parking Rate	1.4 / unit	1.03/ unit	Complies – does not exceed maximum
Total Parking Required	130	121	See parking rate above
Barrier Free Parking Rate	1+3% of required spaces	2 spaces	Complies
Class A Bicycle Space Requirement	0.5 spaces/dwelling unit = 59	130	Exceeds the requirements as part of TDM measures proposed
Class B Bicycle Space Requirement	6	6	Complies

*As per Residential Intensification in Established Neighbourhoods Study (“RIENS”), the front yard setback of development / redevelopment is the average of the abutting front yard or exterior side yard setback plus or minus 1-metre. For the frontage along Jackson Avenue, the abutting sites are 90 Brentwood Avenue and 171 Jackson Avenue. 90 Brentwood Avenue has a minimum exterior side yard setback of approximately 1.8 metres at its closest point from its primary dwelling; 171 Jackson Avenue has a front yard setback of approximately 8.2 metres. The average of the two setbacks is approximately 5.0 metres, providing a flexible front yard setback range of 4.0 metres to 6.0 metres

**Regulation 4.19 of By-law 2019-051 does not apply in this instance. The intent of this regulation is to ensure transition occurs from development along major roadways to abutting low rise residential properties and not from low rise residential to low rise residential.

***The established height is 11m because the height of dwellings on abutting lots along Jackson Ave, are one and two storeys in height.

Holding Provision (84H)

A Holding Provision has been added requiring the owner to complete the Noise Study submitted with the application to the satisfaction of the Region of Waterloo.

Planning Conclusions:

In considering the foregoing, staff are supportive of the Zoning By-law Amendment Application. Staff is of the opinion that the subject application is consistent with policies of the Provincial Policy Statement, conforms to Growth Plan for the Greater Golden Horseshoe, the Regional Official Plan, and the City of Kitchener Official Plan and represents good planning. Staff recommends that the Zoning By-law Amendment Application be approved. The proposed application represents an opportunity to provide 'missing middle' housing that addresses a need in our community.

WHAT WE HEARD



55 people provided written comments

One (1) Neighbourhood Meeting was held February 21, 2024, One (1) meeting was held by Councillor Stretch on March 10, 2024 and One (1) on-site meeting was held by staff on March 26, 2024

309 households were circulated and notified. Ad posted in the Record on March 28, 2024. Supporting documentation with updates posted on City's website

Department and Agency Comments:

Preliminary circulation of the Zoning By-law Amendment Application was undertaken in February 2024 to applicable City departments and other review authorities. No major concerns were identified by any commenting City department or agencies. Copies of the comments are found in Attachment 'E' of this report.

The following reports and studies were considered as part of this proposed Official Plan and Zoning By-law Amendments:

- Completed Application Form and Fees for Applications for an Official Plan Amendment and Zoning By-law Amendment
- Planning Justification Report
- Notice of Source Protection Plan Compliance (Valid Section 59 Notice)
- Urban Design Brief / Neighbourhood Character Analysis (Updated)
- 3D Massing Model (Updated)
- Conceptual Site Plan (Updated)
- Existing Conditions Plan
- Tree Management Plan and Arborist Report (Updated)
- Sustainability and Energy Conservation Report
- Preliminary Building Elevation Drawings
- Preliminary Floor Plans

- Preliminary Grading Plan
- Functional Servicing Report (FSR)
- Water Distribution Report
- Truck Turning Templates
- Transportation Impact Study

Community Input and Staff Response:

Staff received written responses from fifty-five (55) residents with respect to the proposed development. These can be found in Attachment 'F'. A summary of what was heard, and staff responses are noted below.

What We Heard	Staff Comment
<p>Traffic & Parking Concerns</p> <ul style="list-style-type: none"> • Will Create too much traffic • Streets are narrow • Traffic impact not evaluated comprehensively • Pedestrian safety concerns • Not enough parking proposed • Spillover of visitor parking onto neighbouring streets • Why the need for two access points? • Will Brentwood access have buffering/fencing to screen views? 	<p>The majority of the lands are already zoned 'RES-5' in By-law 2019-051 which allows the use of multiple dwellings. Regardless, of whether this application is approved or not, multiple dwellings can be built as-of-right. Consequently, additional traffic will occur. A Traffic Impact Study was completed, however, and it shows that expected peak hour traffic entering and leaving the subject lands is approximately 1 car per minute. This is well within acceptable levels as there are multiple street connections in and out of the neighbourhood. Transportation staff do monitor traffic volumes on many city streets to collect volume and speed data. Concerns expressed around pedestrian safety and traffic in the neighbourhood have been provided to Transportation staff to see if any of the streets would qualify for formal or informal traffic calming measures - Traffic calming - City of Kitchener.</p> <p>The owner has requested a reduction in the required parking spaces from 1.1 spaces (inclusive of visitor) to 1.02 spaces (inclusive of visitor) per dwelling unit. This amounts to a reduction of 9 spaces. To offset the requested decrease, the owner is providing 130 Class A and 6 Class B bicycle spaces to encourage alternate modes of transportation. This, combined with the fact the site is within walking distance to several Regional roadways where public transit is provided, a reduction can be supported in accordance with policy directives.</p> <p>Visitor parking will be provided on site; however, there may be instances where a visitor may choose or must park on surrounding streets. Parking is permitted on City streets in accordance with by-laws and posted regulations. Any infractions should be directed to By-law Enforcement.</p> <p>The owner is requesting to provide a secondary access to Brentwood Avenue to service the development and split</p>

	<p>the traffic entering and existing the site. This is typical for a development of this size. It would also allow Emergency Service vehicles into the site in event Jackson is closed.</p> <p>Staff do not have any major concerns with the access but do recognize the impact it can have on adjacent properties. To mitigate, a number of design measures can be implemented such as fencing in combination with vegetation screening. This will be examined in more detail at the Site Plan review stage.</p>
<p>Compatibility & Intensification Concerns</p> <ul style="list-style-type: none"> • Too dense • Too high (height) • Too much development in the surrounding area • Doesn't fit with surrounding character • Overlook • Buildings too close to Brentwood properties • Shadow • Massing • Exceptions to height & massing should not be allowed • More people/more noise • Fencing 	<p>Multiple dwellings are a permitted use in the existing RES-5 zone. The stacked townhouse building form used in the proposal is considered a compatible building form within established residential areas.</p> <p>The request is for an increase in the allowable building height by 1.5 metres and a corresponding increase in floor space ratio of 1.0. <u>This request does not increase the unit count that could otherwise be achieved through meeting the as-of-right zoning for height and lowered FSR.</u> Staff must consider if the proposed increase in height and FSR create additional adverse impacts over and above what is already allowed as-of-right. A design-based approach was used to examine the massing, scale and relationship of the proposal with existing adjacent development to achieve design compatibility and to mitigate impacts. To achieve this given the proposed height and FSR, several measures have been incorporated including increasing the southerly side yard setback to 7.5 metres from the Brentwood properties and incorporating a building step back of 1.8m for the top level. As-of right, the owner could locate an 11 metre high (12.1 metre due to the slope) building with no step back to within 3 metres of the Brentwood properties. Step backs are used to break up building massing and add visual interest while reducing overlook onto neighbouring properties. In addition, the townhouse block closest to 171 Jackson has been re-oriented to along Jackson Ave. This design change eliminates the overlook concerns of the previous design to 171 Jackson and saves more mature trees along the northerly property boundary. Buildings will not create shadow impact. Overall, the unit count has decreased to 120 dwelling units and 121 parking spaces.</p> <p>The requested increase in building height would allow the basement level to be raised 1.5 metre further above grade allowing natural light into basement units. This would create a better and more desirable living environment for occupants in their basement. From this standpoint, exceptions should be considered and are allowed under legislation. What this does however is trigger a public review and decision-making process to</p>

	<p>determine whether it is acceptable to Council. Under as-of-right zoning there isn't that mechanism for public involvement and Council decision. Having to go through a public process allows for review and potential improvements with an opportunity for the public to weigh in.</p> <p>The City does not assess nor regulate noise generated from people.</p> <p>Fencing will be explored during the Site Plan review stage of the development approvals process.</p>
<p>Servicing Concerns</p> <ul style="list-style-type: none"> • Capacity issues • Electricity • Parks • Crime 	<p>Full municipal services exist within the Jackson and Brentwood Avenue rights-of-way. Engineering and Enova staff have not identified any servicing and/or capacity issues with existing municipal services and electricity for this proposal. A thorough review of servicing, grading, storm water management and electricity will occur at the detailed design phase of the project. All servicing costs from the street into the site are borne by the developer.</p> <p>Parks staff has indicated there is sufficient parks space for the Eastwood community and will therefore be asking for cash-in-lieu of parkland dedication through the Site Plan Application Approval process. Upgrades to Montgomery Park are planned for the near future. A private amenity space is proposed on-site.</p> <p>There is no evidence to suggest this development proposal will lead to an increase in crime.</p>
<p>Environmental Impacts</p> <ul style="list-style-type: none"> • pond • Wooded area • Goose Impact Study • perimeter trees and vegetation • Air quality • Effect on streams 	<p>These properties are not identified as having any cultural or natural heritage significance that would initiate the preparation of air, wildlife, bird, reptile, or other environmental impact studies.</p> <p>The site does however contain a number of trees and vegetation that are subject to the City's Tree Management Policy. An Arborist's report and Tree Plan have been prepared in accordance with that policy which has been reviewed and accepted by staff. Many of the perimeter trees along the common property boundaries are proposed to be retained. Additional trees and vegetation plantings will be required through the Site Plan Application Approval process.</p> <p>Any surface run-off from development within the City is subject to the City's Storm Water Management Policies for water quality and quantity. This will be evaluated by Engineering staff in the detailed design phase of the project.</p>

<p>Heritage</p> <ul style="list-style-type: none"> • Property should be protected 	<p>These properties are not listed on the heritage register. Therefore, heritage policies do not apply.</p>
<p>Construction & Dust</p> <ul style="list-style-type: none"> • Hours of operation • Dust 	<p>The City has by-laws and regulations around construction hours of operations and dust control. Construction hours allowed are 7 days a week from 7am-7pm. Dust control is a requirement of the Site Plan Agreement.</p>
<p>Noise Concerns/impacts</p>	<p>A Noise study was submitted in accordance with the Ministry of the Environment and Climate Change (MOECC) guideline called Environmental Noise Guideline - Stationary and Transportation Sources - Approval and Planning (NPC-300). The review and approval of this study lies with the Region of Waterloo who has delegated approval authority. Through correspondence received and attached to this report, Regional staff have advised City staff that they have no concerns with the findings of the study and that recommendations to mitigate noise are to be implemented through a Section 51 agreement with the Region.</p>
<p>Property Values Impacts</p>	<p>Planning staff are not able to predict the impact of a new development on property values. For assessment purposes, which is used to calculate taxes, MPAC assesses property based on up to 200 different factors including the size of lot and house, the quality of construction, as well as many others. The assessed value usually differs from the market value of a property, and market value is influenced by numerous factors as well.</p>
<p>RIENS</p>	<p>The report was approved by council on March 20, 2017. Since that time, staff has completed the following:</p> <ul style="list-style-type: none"> • Public information and awareness - A educational guide has now been published to provide more information on the development process and how citizens can provide feedback. Paper copies are available at City Hall, 6th Floor, Planning Division or check out the online version. • Process enhancements – new Signs are now posted on the property and Postcard circulation to residents within 240 metres of the subject lands. • New zoning rules for the location of garages, heights of buildings and front yard setbacks are now in effect. • Urban Design Guidelines have been updated. <p>All of these measures have been used for this proposal.</p>

Schools	School planning and enrollment responsibility falls with County's School Boards. No issues were identified with the proposal.
Tenure <ul style="list-style-type: none"> • Condo or Rental • No. of bedrooms • Regulations for non-owner occupancy 	<p>According to the owner, this will be a condominium development.</p> <p>The City does not regulate the number of bedrooms, whether it can be rented or owner occupied or who can live there. That would be considered people zoning violating the Human Rights Code.</p>
Meeting Format & Circulation Notice	Was done in accordance with the City's engagement policies as approved by Council. The City's circulation requirements significantly exceed all requirements in the Planning Act.

STRATEGIC PLAN ALIGNMENT:

The recommendation of this report supports the achievement of the City's strategic vision through the delivery of core service.

FINANCIAL IMPLICATIONS:

Capital Budget – The recommendation has no impact on the Capital Budget.

Operating Budget - *Bill 109, More Homes for Everyone Act, 2022* introduced a requirement for a municipality to refund planning application fees if a decision is not made within a prescribed timeframe. Decisions on Zoning By-law Amendments, when combined with an Official Plan Amendment, are required within 120 days to retain planning application fees, for applications received after July 1, 2023. A decision must be made by Council prior to May 9, 2024 or the Planning Division must issue an application fee refund of \$12,800.00, being 50% of the \$25,600.00 Major Zoning By-law Amendment Application fee. The Development and Housing Approvals Division does not have a funding source or budget for refunding planning application fees.

COMMUNITY ENGAGEMENT:

INFORM – This report has been posted to the City's website with the agenda in advance of the Council / Committee meeting. A large billboard notice sign was posted on the property and information regarding the application was posted to the City's website. Following the initial circulation referenced below, an additional courtesy notice of the public meeting was circulated to all property owners within 240 metres of the subject lands, those responding to the preliminary circulation and Notice of the Public Meeting was posted in the Waterloo Region Record on March 28, 2024 (a copy of the Notice in Attachment 'D').

CONSULT – The proposed Zoning By-law Amendment was originally circulated to property owners within 240 metres of the subject lands in February 2024. In response to this circulation, staff received written responses from 55 residents, which are included in Attachment 'F'. A Neighbourhood Meeting was held on January 19, 2023, Councillor Stretch held a meeting with residents on March 10, 2024, and a follow up on-site meeting attended by 5 residents with staff/Councillor Stretch on March 26, 2024.

PREVIOUS REPORTS/AUTHORITIES:

- *Zoning By-law 2019-051*
- *Official Plan, 2014*
- *Regional Official Plan, 2010 and ROPA 6*
- *Provincial Policy Statement, 2020*
- *Planning Act, 1990*
- *A Place to Grow Growth Plan, 2020*

REVIEWED BY: Tina Malone-Wright, Manager of Development Approvals, Development and Housing Approvals Division

APPROVED BY: Justin Readman - General Manager, Development Services

ATTACHMENTS:

Attachment A - Proposed Official Plan Amendment

Attachment B - Proposed By-law and Map No. 1

Attachment C - Urban Design Brief

Attachment D - Newspaper Ad

Attachment E - Department and Agency Comments

Attachment F - Community Consultation Comments