

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: April 16, 2024

SUBMITTED BY: Paige Thompson, Planning Student, 519-741-2200 ext. 7074

PREPARED BY: Tina Malone-Wright, Manager, Development Approvals 519-741-2200 ext. 7765

WARD(S) INVOLVED: Ward 5

DATE OF REPORT: March 28, 2024

REPORT NO.: DSD-2024-177

SUBJECT: Minor Variance Application A2024-025
1187 Fischer Hallman Road

RECOMMENDATION:

That Minor Variance Application A2024-025 for 1187 Fischer Hallman Road requesting relief from Section 5.6B b) of Zoning By-law 85-1 to permit an outdoor patio to be located 0 metres from a lot line abutting a street instead of the minimum required 3 metres, to facilitate the development of a new outdoor patio adjacent to Max Backer Drive, generally in accordance with drawings prepared by Schlegel Urban Developments, dated February 28, 2024, **BE APPROVED.**

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to facilitate the development of an outdoor patio.
- The key finding of this report is that the requested variance meets the 4 tests of the Planning Act.
- There are no financial implications.
- Community engagement included a notice sign being placed on the property advising that a Committee of Adjustment application has been received, notice of the application was mailed to all property owners within 30 metres of the subject property, and this report was posted on the City's website with the agenda in advance to the Committee of Adjustment meeting.
- This report supports the delivery of core services.

BACKGROUND:

The subject property currently contains three (3) commercial buildings and is located at the intersection of Fischer Hallman Road and Max Becker Drive.

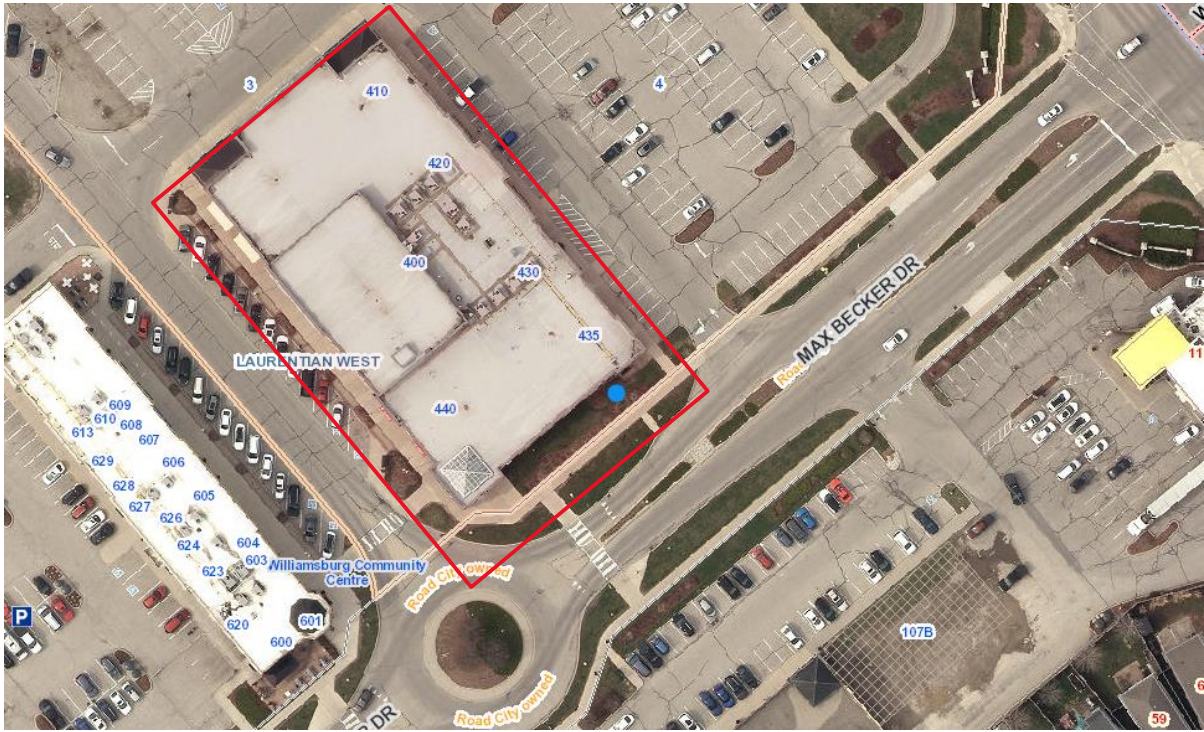


Figure 1 – Aerial View of Building 400 on Subject Property.

The subject property is identified as a 'Community Node' as per Map 2 – Urban Structure and is designated as 'Commercial' on Map 3 – Land use in the City's 2014 Official Plan.

The property is zoned as 'Neighbourhood Shopping Centre Zone (C-2)' in Zoning By-law 85-1.

The purpose of the application is to permit the construction of a patio to be 0 metres from the lot line abutting Max Becker Drive instead of the minimum required 3 metres. Building No. 400 (as depicted in Figure 1) is 6.2 metres away from the property line, leaving 3.2 metres with a 3 metre setback, thus not leaving enough room for a functional patio design. The building currently occupies a restaurant use. It is also worth noting that the proposed railings that will surround the patio will be no taller than 3 feet to align with regulations.

Staff conducted a visit to the subject property on March 28th, 2024.



Figure 2 – Site visit photo of proposed patio location.

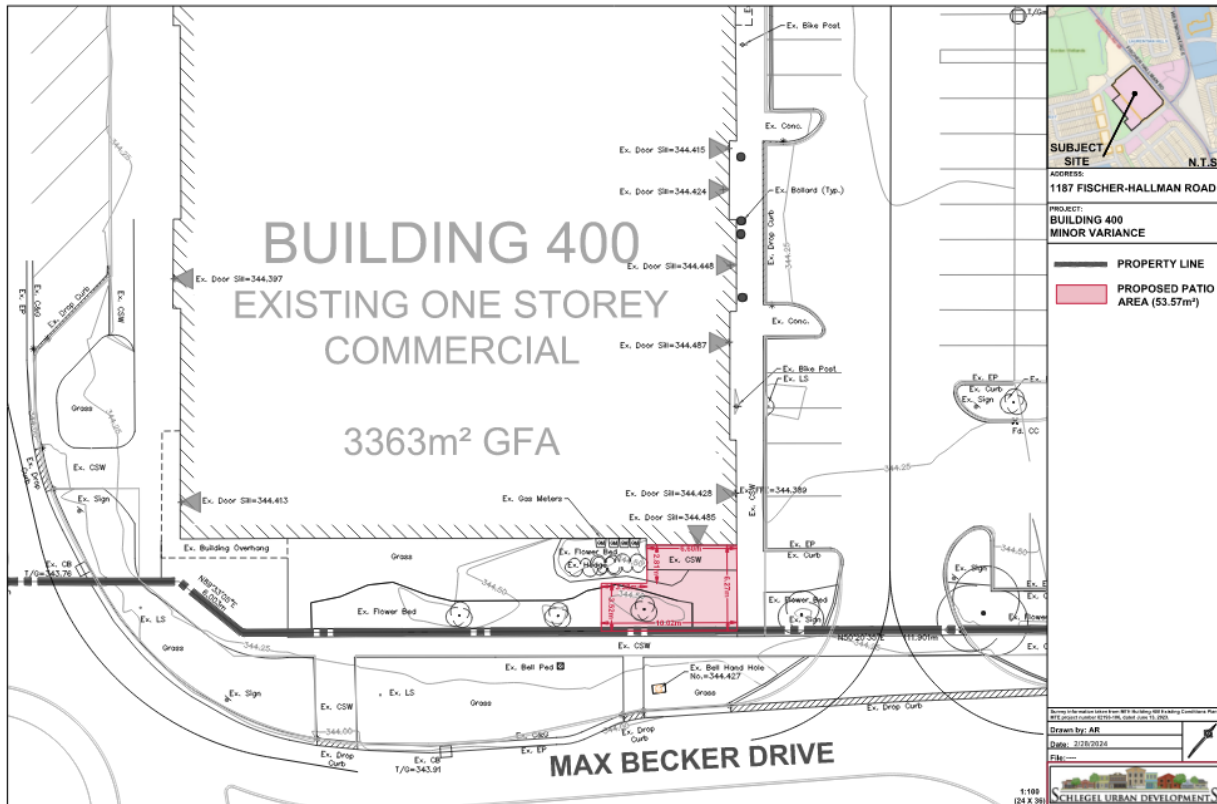


Figure 3 – Proposed Site Plan.

REPORT:

Planning Comments:

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

General Intent of the Official Plan

The subject property is designated as 'Commercial' in the City's Official Plan (2014). The intent of the Commercial land use designation is to promote commercial activities, of which contribute to the economic activity and health and vitality of the city. Commercial lands are intended to provide a range of retail and service commercial uses that cater primarily to the weekly and daily needs of residents within the surrounding neighbourhoods.

The addition of an outdoor patio supports the existing commercial lands and use and improves versatility. With that said, staff are of the opinion that the proposed minor variance meets the general intent of the Official Plan.

General Intent of the Zoning By-law

The general intent of Zoning By-law 85-1 requires that patios attached or unattached to the main building be setback a minimum of 3 metres to provide adequate separation between buildings and outdoor structures from the street. This regulation ensures that there is sufficient space for greenery, sidewalks, and open space. Given the width of the Max Becker right-of-way, there will still be sufficient greenery and open space and the location of the outdoor patio will not inhibit the functioning of the sidewalk or other activity within the right-of-way. Staff is of the opinion that the variance meets the general intent of the Zoning By-law.

Is/Are the Effects of the Variance(s) Minor?

Planning staff is of the opinion that the requested variance is minor in that it is not anticipated to cause unacceptably adverse impacts to the right-of-way or surrounding area.

Is/Are the Variance(s) Desirable for the Appropriate Development of Use of the Land, Building and/or Structure?

Planning staff are of the opinion that variance is desirable and appropriate as it will facilitate an outdoor patio in this location which will enhance the public realm by creating a vibrant and lively streetscape.

Environmental Planning Comments:

No natural heritage or tree management concerns.

Heritage Planning Comments:

No heritage concerns

Building Division Comments:

The Building Division has no objections to the proposed variance provided a building permit for the patio enclosure is obtained prior to construction.

Engineering Division Comments:

Engineering Division staff have no comments.

Parks/Operations Division Comments:

Parks/Operations Division staff have no comments.

Transportation Planning Comments:

Transportation Planning staff have no comments.

STRATEGIC PLAN ALIGNMENT:

This report supports the delivery of core services.

FINANCIAL IMPLICATIONS:

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

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

COMMUNITY ENGAGEMENT:

INFORM – This report has been posted to the City's website with the agenda in advance of the Committee of Adjustment meeting. A notice sign was placed on the property advising that a Committee of Adjustment application has been received. The sign advises interested parties to find additional information on the City's website or by emailing the Planning Division. A notice of the application was mailed to all property owners within 30 metres of the subject property.

PREVIOUS REPORTS/AUTHORITIES:

- *Planning Act*
- *Provincial Policy Statement (PPS 2020)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan*
- *Official Plan (2014)*
- *Zoning By-law 85-1*