

# Staff Report



Development Services Department

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**REPORT TO:** Planning and Strategic Initiatives Committee

**DATE OF MEETING:** May 13, 2024

**SUBMITTED BY:** Garett Stevenson, Director of Development and Housing Approvals, 519-741-2200 ext. 7070

**PREPARED BY:** Eric Schneider, Senior Planner, 519-741-2200 ext. 7843

**WARD(S) INVOLVED:** Ward 9

**DATE OF REPORT:** April 15, 2024

**REPORT NO.:** DSD-2024-203

**SUBJECT:** Zoning By-law Amendment Application ZBA24/006/W/ES  
115-131 Whitney Place  
Hilts Auto Inc.

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## RECOMMENDATION:

That Zoning By-law Amendment Application ZBA24/006/W/ES (Hilts Auto Inc.) requesting to amend Zoning By-law 85-1, for the purpose of changing the zoning of a portion of the subject property (115-131 Whitney Place) from Existing Use Zone (E-1) to Existing Use Zone (E-1) with Special Use Provision 488U specified and illustrated as the 'Subject Area' on Map No. 1, be approved in the form shown in the "Proposed By-law" attached to the Report DSD-2024-203 as Attachment 'A1'; and,

That Zoning By-law Amendment Application ZBA24/006/W/ES (Hilts Auto Inc) requesting to amend Zoning By-law 2019-051, for the purpose of changing the zoning of a portion of the subject property (115-131 Whitney Place) from Existing Use Floodplain Zone (EUF-1) to Existing Use Floodplain Zone (EUF-1) with Site Specific Provision 394 specified and illustrated as the 'Subject Area' on Map No. 1, be approved in the form shown in the "Proposed By-law" attached to the Report DSD-2024-203 as Attachment 'A2'; and further,

That the Proposed By-law to amend Zoning By-law 2019-051, as amended, shall have no force and effect against the subject lands until the date that By-law 2024-064 (Growing Together Secondary Plans, Non-PMTSAs) is in full force and effect.

## REPORT HIGHLIGHTS:

- The purpose of this report is to seek Council's approval of a Zoning By-law Amendment Application to add the use "Automotive Detailing and Repair Operation" to the rear portion of the lands municipally known as 115-131 Whitney Place.

\*\*\* This information is available in accessible formats upon request. \*\*\*  
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

- There are no financial implications associated with the Zoning By-law amendment application.
- Community engagement included notification that was advertised in The Record on April 26, 2024, in accordance with Council Policy MUN-PLA-1170.
- This report supports the delivery of core services.

### **BACKGROUND:**

Hilts Auto Inc has submitted a Zoning By-law Amendment Application to permit the use of “Automotive Detailing and Repair Operation” on the subject lands. The property contains a portion of lands at the rear of the site that is within a floodplain area and is zoned as “existing use”. Lands within floodplains are typically zoned “existing use” to recognize the existing uses that have been legally established, but to limit the further development of the land by prohibiting all other uses. However, Council policy MUN-PLA-1170 allows landowners to make a Zoning By-law Amendment Application at no cost, to allow for a change in use.

### **REPORT:**

The subject lands municipally addressed as 115-131 Whitney Place are located on the south side of Whitney Place between Peter Street and Cedar Street South. The lands back onto Schneider Creek to the South. The surrounding land uses on the South side of Whitney Place are primarily general industrial and commercial in nature. The rear portion of the subject property is located within the floodway of Schneider Creek and is under regulation of the Grand River Conservation Authority (GRCA).

The subject lands contain a one-storey building with historical industrial uses, including long term use as the site of Ed Lau Ironworks. The property is split zoned, meaning there are portions of the site with two different zones within the same zoning by-law. The property is also subject to “dual testing”, meaning there are currently two zoning by-laws in effect on the lands as a result of the Council approval of Growing Together West (OPA23/016/K/JZ) on March 18, 2024. Until the Official Plan Amendment is adopted by the Region of Waterloo, the lands are subject to both Zoning By-law 85-1 and Zoning By-law 2019-051, with the most stringent regulations being applied. The front portion of the lands are zoned “General Industrial (M-2)” in Zoning By-law 85-1 and “General Industrial Employment (EMP-2)” in Zoning By-law 2019-051. The rear of the site is zoned “Existing Use (E-1)” in Zoning By-law 85-1 and “Existing Use Floodplain (EUF-1) in Zoning By-law 2019-051.

The intent of the Existing Use (E-1)/Existing Use Floodplain (EUF-1) Zone is to allow existing uses to legally continue. Properties located within the E-1/EUF-1 zone that are located within the flood plain and are proposing to change to a different use through a zoning by-law amendment should be less sensitive uses or similar to uses that are currently permitted.

### **Planning Analysis**

The owner is proposing a Zoning By-law Amendment to allow the use “Automotive Detailing and Repair Operation” on the portion of the subject property that is within the floodplain. The proposed additional use is similar in nature to the historical use (light industrial, warehouse) permitted on the subject property. There is no development, expansion or modification being proposed to the existing building or property. The

proposed use will not aggravate or pose a new risk associated with flooding to the property, tenants or customers. The proposed use is permitted on the front portion of the subject lands. The proposed use is appropriate for the subject property and are compatible with the surrounding neighbourhood.

The Grand River Conservation Authority (GRCA) was directly involved in the review of this application. The GRCA has indicated that they do not object to the proposed use of the existing lands and buildings, as it would not present additional risk of impacting flood flows.

Planning staff is of the opinion that the proposed zoning by-law amendment to add a Special Use Provision/Site Specific Provision will benefit the subject property and surrounding community. Allowing the requested use will permit the applicant to utilize the entirety of the building and property for the automotive use desired. Allowing the requested use is appropriate and compatible for the subject lands and surrounding neighbourhood.

**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;
- i) The adequate provision and distribution of educational, health, social, cultural and recreational facilities;
- 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;

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 1.3 of the PPS promotes economic development and competitiveness by providing for a diversified economic base, including maintaining a range of choice of suitable sites for employment uses, and take into account the needs of existing and future businesses.

Planning staff is of the opinion that the proposed application will facilitate the continued use of the site as an employment use, and based on the foregoing, 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 2.2.5.1(a) states that municipalities will make more efficient use of existing employment areas and vacant and underutilized employment lands and increasing employment densities.

Policies 2.2.5.1(b) states that municipalities will ensure the availability of sufficient land, in appropriate locations for a variety of employment to accommodate forecasted employment growth.

Planning staff is of the opinion that the application conforms to the Growth Plan.

**Regional Official Plan**

The subject lands are designated as 'Delineated Built Up Area' in the Regional Official Plan. The Region of Waterloo advises that they do not have concerns with the proposed Zoning By-law Amendment Application.

**City of Kitchener Official Plan (OP)**

The City of Kitchener OP provides the long-term land use vision for Kitchener. The vision is further articulated and implemented through the guiding principles, goals, objectives, and policies which are set out in the Plan. The Vision and Goals of the OP strive to build an innovative, vibrant, attractive, safe, complete and healthy community.

The subject lands are split designated and are subject to dual testing in regards to Official Plan Designation.

The lands are within the Mill Courtland Woodside Park Secondary Plan, and are split designated 'General Industrial' and 'Open Space'.

On March 18, 2024, Council approved the Growing Together land use mapping. The subject lands are proposed to be split designated “General Industrial Employment” and “Natural Heritage Conservation” with the approval of the OPA by the Region of Waterloo.

The subject area of amendment is within the “Open Space/Natural Heritage Conservation” designated portion of the property. The intent of the designation is to not only recognize municipal recreation areas but to recognize areas that are subject to GRCA regulation. The subject property and surrounding area are built-up and consist of uses other than outdoor recreation and natural areas. Policy 6.C.2.22 supports the consideration of alternative uses on lands zoned ‘existing use’ through a zoning by-law amendment, provided that the subsequent uses are compatible with the surrounding land use designations, no new dwelling units are created, the use presents less of a risk to life and property in the event of flooding, and approval is received from the Grand River Conservation Authority.

Planning Staff are of the opinion that application conforms to the Official Plan.

**Department and Agency Comments:**

Circulation of the Zoning By-law Amendment Application was undertaken in March 2024 to all applicable City departments and other review authorities. No major concerns were identified by any commenting City department or agency. Copies of the comments are found in Attachment ‘C’ of this report.

**Planning Conclusions**

In considering the foregoing, staff are supportive of the proposed Zoning By-law Amendment to permit the use of “Automotive Detailing and Repair Operation” on the subject lands. 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. It is recommended that the application be approved.

**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 council / committee meeting. Notice of the Statutory Public Meeting was also posted in The Record on April 26, 2024 (a copy of the Notice may be found in Attachment B).

**PREVIOUS REPORTS/AUTHORITIES:**

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

- Growth Plan, 2020
- Provincial Policy Statement, 2020
- Region of Waterloo Official Plan
- City of Kitchener Official Plan, 1994, 2014
- City of Kitchener Zoning By-law 85-1/2019-051

**REVIEWED BY:** Malone-Wright, Tina –Manager, Development Approvals, Development and Housing Approvals

**APPROVED BY:** Readman, Justin - General Manager, Development Services

**ATTACHMENTS:**

Attachment A1 – Proposed Zoning By-law Amendment (85-1)

Attachment A2 – Proposed Zoning By-law Amendment (2019-051)

Attachment B – Newspaper Notice

Attachment C – Department and Agency Comments