

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: June 18, 2024

SUBMITTED BY: Tina Malone-Wright, Manager, Development Approvals
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PREPARED BY: Arwa Alzoor, Planner, 519-741-2200 ext. 7847

WARD(S) INVOLVED: Ward 3

DATE OF REPORT: May 28, 2024

REPORT NO.: DSD-2024-276

SUBJECT: Minor Variance Application A2024-044 – 160 Webster Road

RECOMMENDATION:

That Minor Variance Application A2024-044 for 160 Webster Road requesting Permission under section 45(2)(a)(ii) of the Planning Act to permit the enlargement of a legal non-conforming use, the 'Sale, Rental and Service of Industrial Equipment' in a 'Heavy Industrial Zone (EMP-3)' to facilitate the enclosure an existing open loading area that is 128.76 square metres in size, in accordance with Site Plan Application SP24/012/W/AA, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review and make recommendations with respect to the requested application for Permission for 160 Webster Road.
- The key finding of this report is that the application be approved.
- 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 to the City's website with the agenda in advance of the Committee of Adjustment meeting.
- This report supports the delivery of core services.

BACKGROUND:

The subject property is located in the Trillium Industrial Park on the east side of Manitou Drive and the south side of Fairway Road South. The subject lot currently contains an existing office and warehouse for the sale, rental and service of industrial equipment, with an existing parking lot and loading space. The property is surrounded by industrial buildings in the Heavy Industrial Employment Zone and commercial buildings in the Commercial Campus Zone.

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

The subject property is identified as 'Industrial Employment Area' on Map 2 – Urban Structure and is designated 'Heavy Industrial Employment' on Map 3 – Land Use in the City's 2014 Official Plan.

The property is zoned 'Heavy Industrial Employment Zone (EMP-3)' in Zoning By-law 2019-051.

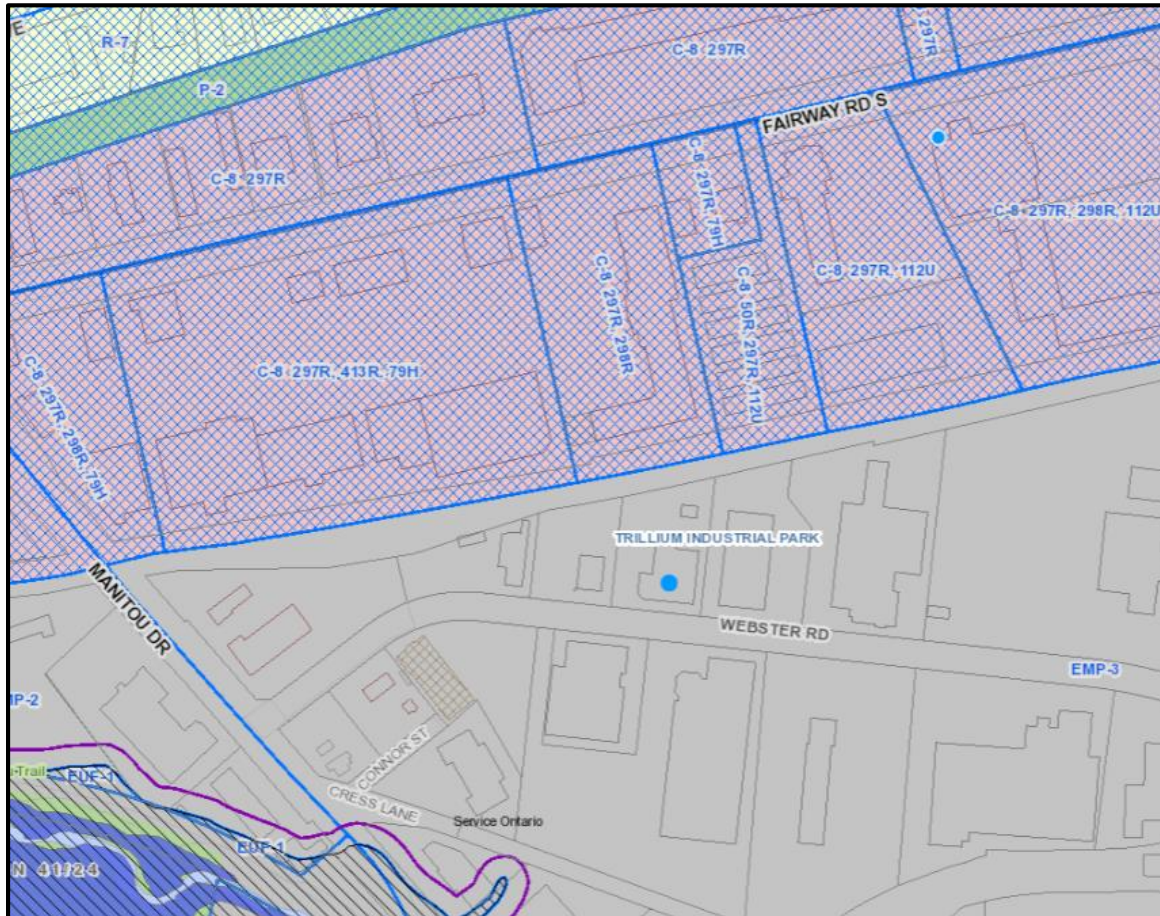


Figure 1: The proposed property on the Zoning map.

The purpose of the application is to facilitate the enclosure of an existing open loading area of 128.76 square metres. The current loading area is roofed but not considered part of the building area. The proposal includes adding large overhead rolling doors and a man door; in accordance with the Conditionally Approved Site Plan Application SP24/012/W/AA.

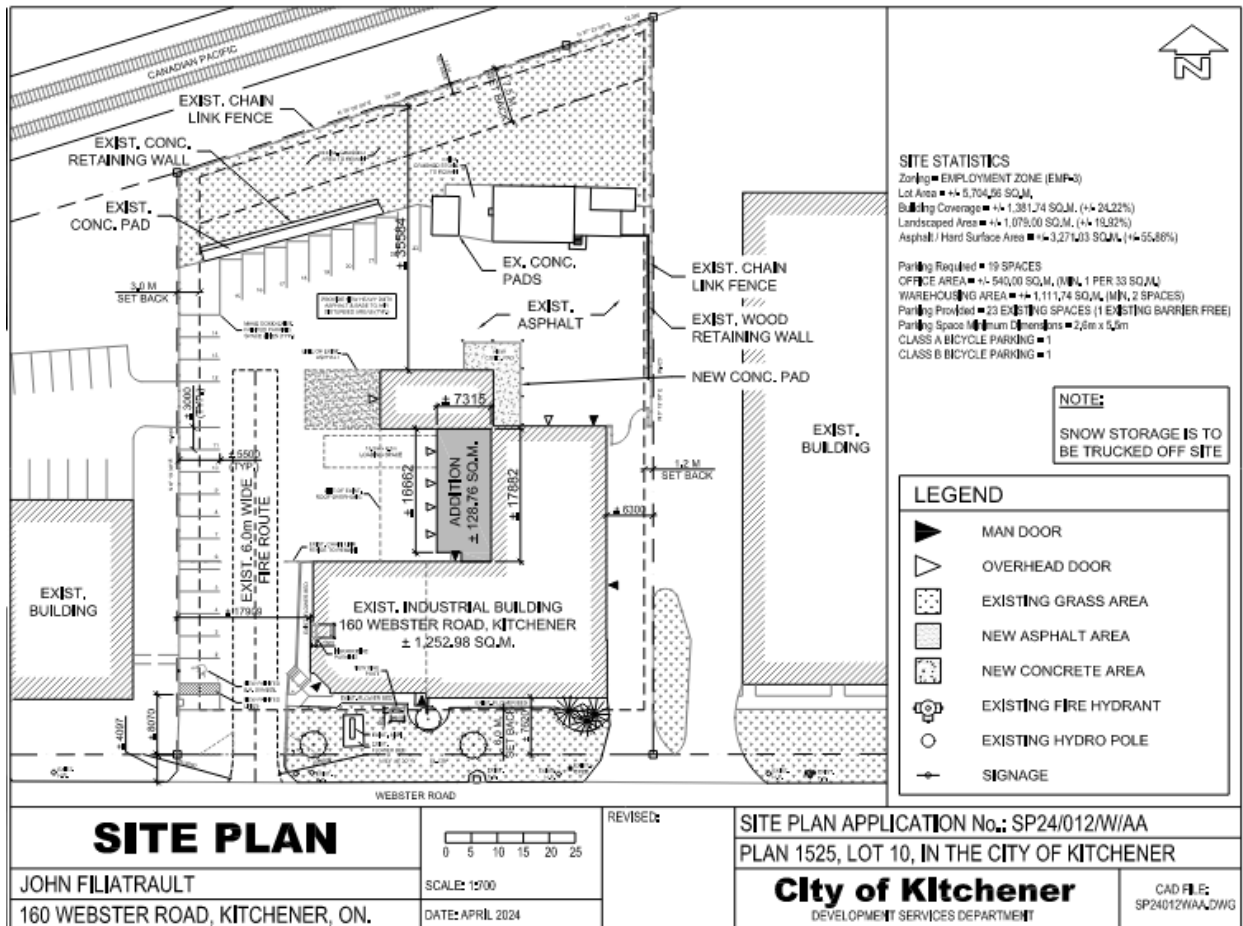


Figure 2: The proposed Site Plan.

The Zoning Occupancy Certificate from 2021 (number 21-113233) permits the existing use of Sale, Rental, and Service of Industrial Equipment as a Legal Non-Conforming use, initially established under the M-4 zone in Zoning By-law 85-1. The M-4 zone, a heavy industrial zone, permits various industrial uses, including Biotechnological Establishments, the Sale and Storage of Heating Fuel, and the Sale, Rental, Storage, or Service of Tools and Industrial, Farm, or Catering Equipment. However, the current zoning, EMP-3, designated for Heavy Industrial Employment under Zoning By-law 2019-51, does not permit this specific use.

The 'EMP-3' zone is intended for industrial uses, including noxious ones, and for activities requiring large tracts of land for sizable buildings, materials, and products situated away from sensitive land uses. As a result, the existing use became legal and non-conforming when the zoning changed.

To accommodate any expansion or addition to this use, approval under section 45(2)(a)(ii) of the Planning Act.

Section 45(2)(a)(ii) of the Planning Act:

- "ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law

than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee;”

Staff conducted a site visit on May 30, 2024



Figure 3: Front photo of the subject property.



Figure 4: West photo of the subject property showing the existing loading area.



Figure 5: A photo of the building side that will be closed.

REPORT:

Planning Comments:

Case law sets out the tests to be applied by the Committee of Adjustment in considering applications under Section 45(2)(a)(ii). It should be noted that the test to be applied is not the four-part test for minor variances under Section 45(1) but rather whether the approval of the application:

1. Is in the public interest; and
2. Creates unacceptable or adverse impact upon abutting properties.

Is Approval in the Public Interest?

Staff are of the opinion that the approval of this application is in the public interest as it would allow for the continuation of the existing use. This expansion supports the stability and consistency of the local business environment, ensuring that the established industrial operations can maintain their contributions to the local economy. Additionally, the existing use integrates well into the current heavy industrial zone.

Moreover, the area increase is within the buildable area of the existing building and will not have a significant impact or disruption on the adjacent properties. Maintaining the current use avoids the potential adverse effects that might arise from repurposing the site for a different

use or relocating the business, which could involve significant construction or new environmental concerns.

In conclusion, the proposal aligns with broader community goals by fostering economic strength, supporting industrial employment, and utilizing existing infrastructure efficiently. Therefore, approving the addition as a legal non-conforming use is in the public's best interest.

Any Adverse or Unacceptable Impacts?

Staff are of the opinion that permitting the expansion of the legal non-conforming use of Sale, Rental, and Service of Industrial Equipment on the subject property will not create any adverse or unacceptable impacts. The property has enough parking to accommodate the existing and proposed gross floor area. Staff note that the property is surrounded by industrial buildings in the Heavy Industrial Employment Zone and commercial buildings to the north. The current infrastructure is adequate to support the expansion without requiring significant modifications that might disrupt the local environment or community. The surrounding industrial and commercial properties are compatible with the continued use of the site for industrial equipment services, minimizing any potential conflicts or nuisances. The separation from sensitive land uses, such as residential and institutional areas, further reduces the likelihood of adverse impacts on the local population. The proposal has received conditional site plan approval, demonstrating that the site can function appropriately and that the addition will not have any significant impacts on adjacent properties, the overall neighbourhood, or the streetscape. Therefore, no adverse or unacceptable impacts are anticipated.

Environmental Planning Comments:

No concerns

Heritage Planning Comments:

No heritage planning comments or concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit for the addition and renovation to the existing industrial building is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

No comments

Parks/Operations Division Comments:

Parks and Cemeteries concerns and requirements have been addressed through SP24/012/W/AA.

Transportation Planning Comments:

Transportation Services has no concerns with this application.

The Region of Waterloo Comments:

No concerns

Grand River Conservation Authority (GRCA) Comments:

GRCA has no objection to the approval of the above applications. The subject properties do not contain any natural hazards such as watercourses, floodplains, shorelines, wetlands, or valley slopes. The properties are not subject to Ontario Regulation 41/24 and, therefore, permission from GRCA is not required.

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 2019-051*