

REPORT TO: Planning and Strategic Initiatives Committee

DATE OF MEETING: August 12, 2024

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

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

WARD(S) INVOLVED: Ward 3

DATE OF REPORT: July 12, 2024

REPORT NO.: DSD-2024-342

SUBJECT: Zoning By-law Amendment Application ZBA24/013/F/BB
75 First Avenue
Applicant: Jason Dale

RECOMMENDATION:

That Zoning By-law Amendment Application ZBA24/013/F/BB requesting to amend Zoning By-law 2019-051, for Jason Dale, 75 First Avenue, be approved in the form shown in the 'Proposed By-law' and 'Map No. 1' attached to Report DSD-2024-342 as Attachment 'A'.

REPORT HIGHLIGHTS:

- The purpose of this report is to evaluate and provide a planning recommendation regarding a Zoning By-law Amendment Application for the property located at 75 First Avenue.
- It is Planning staff's recommendation that the Zoning By-law Amendment Application be approved. The proposed application represents an opportunity to provide additional low-rise infill housing to help address a need in our community.
- Community engagement included:
 - Circulation of a preliminary notice to residents and property owners within 240 metres of the subject site;
 - Installation of a large billboard notice sign on the property;
 - Neighbourhood Meeting held on June 19, 2024;
 - Notice of the statutory public meeting was circulated to all residents and 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 July 19, 2024.
- This report supports the delivery of core services
- This application was deemed complete on May 28, 2024. The Applicant can appeal this application for non-decision after August 29, 2024.

EXECUTIVE SUMMARY:

The owner of the subject lands addressed as 75 First Avenue is proposing to change the zoning from 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051 to 'Low Rise Residential Five Zone (RES-5)' with Site Specific Provision (404). This is to permit the use of a multiple dwelling (more than 4 units). Staff are recommending the application be approved.

BACKGROUND:

The City of Kitchener has received an application for a Zoning By-law Amendment (ZBA) for a development concept that proposes a 3-unit building addition onto an existing 3-unit rental and occupied multiple dwelling for a total of six (6) units and 5 parking spaces. The reason an amendment is requested to the zoning by-law to change the zoning to 'RES-5' is that the existing 'RES-4' zone only allows up to a maximum of four (4) dwelling units in a multiple dwelling whereas six (6) are proposed. Special regulations in Site Specific Provision (404) are also proposed to implement the site-specific nature of the development proposal. As the proposal is less than 10 dwelling units, Site Plan Approval is not required as per the Planning Act, but the development proposal would be subject to a Zoning Occupancy Permit.

The subject property falls within the 'Community Area' 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).

Site Context

The subject lands are addressed as 75 First Avenue as shown in Figure 1 below. The subject lot is currently developed with a 3-unit multiple dwelling. First Avenue is a Major Community Collector Street which is serviced by Grand River Transit Route 7. The surrounding neighbourhood contains a mix of low-rise residential uses including townhouses situated immediately east of the subject property on Connaught Place as shown on Figure 2.

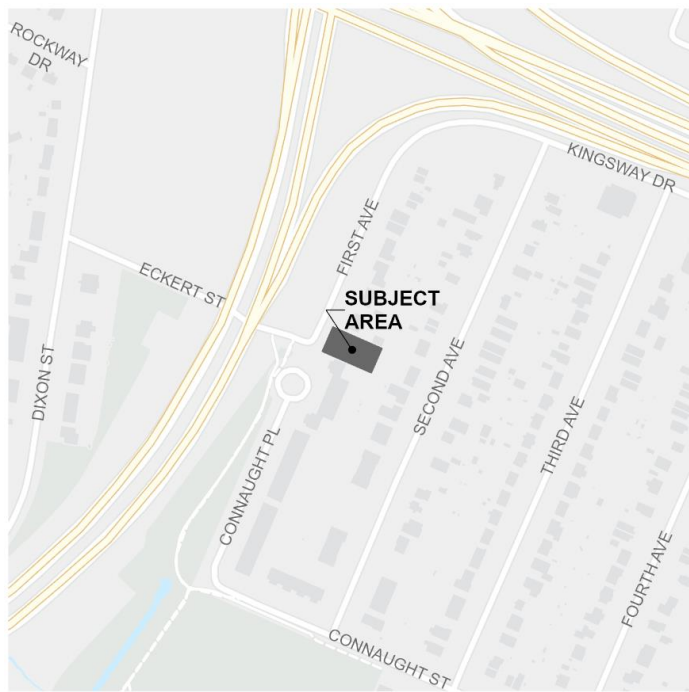


Figure 1 – Subject Lands

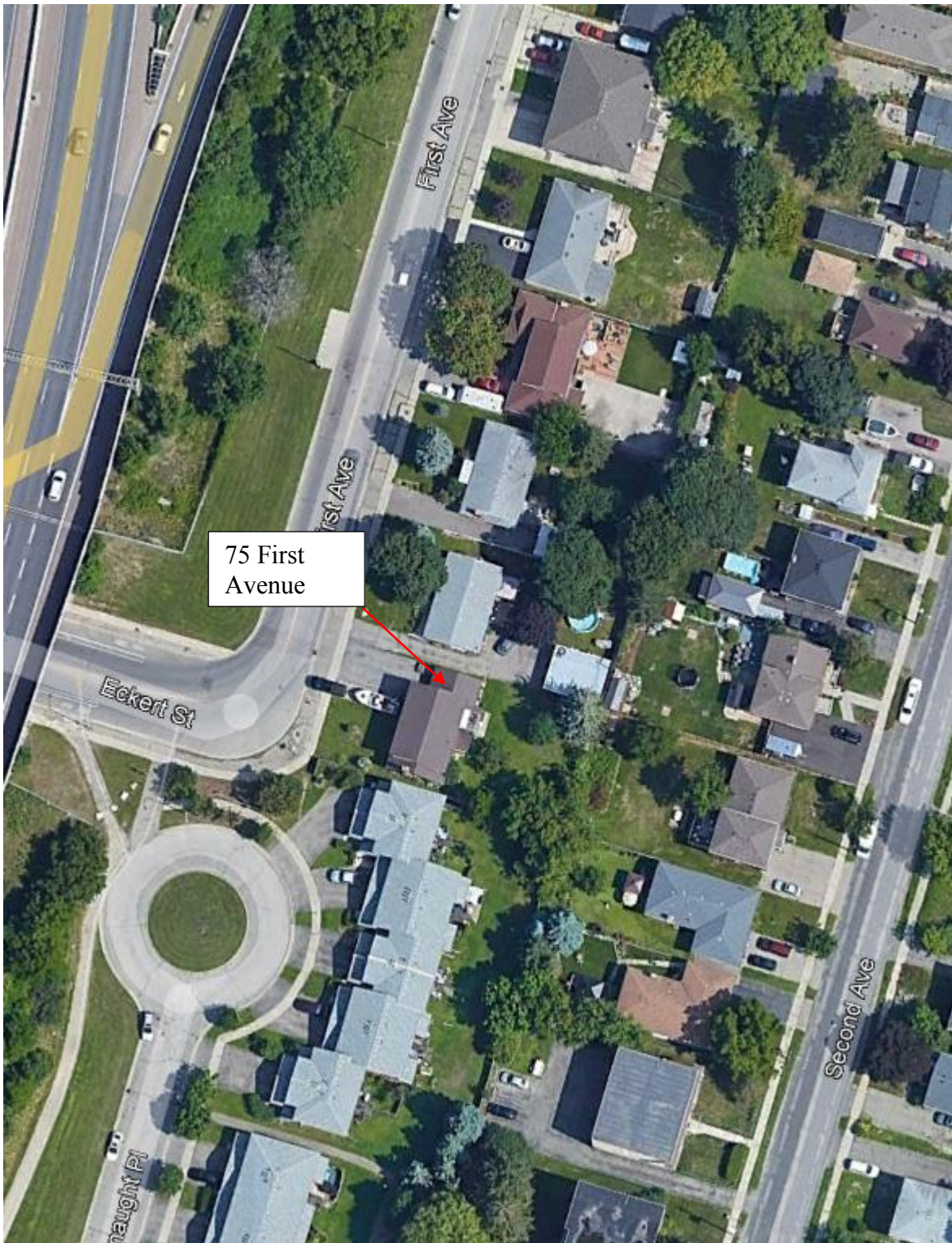


Figure 2 – Aerial Photo of Subject and Surrounding Lands

REPORT:

The applicant is proposing to add a 3 unit building addition to the existing 3-unit multiple dwelling as shown below in Figure 3. There is a single point of access proposed to First Avenue leading to five (5) surface parking spaces at the rear of the property.



Figure 3 – Building Elevation of Proposed Rear Addition and Parking

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:

- 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;
- k) The adequate provision of employment opportunities;
- 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, as it directs how and where development is to occur. 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(b) of the PPS promotes all types of residential intensification, and 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.

To support provincial policies relating to the optimization of infrastructure, transit and active transportation, the proposed zoning facilitates a compact form of infill development which efficiently uses the lands, is near transit options, and makes efficient use of both existing roads and active transportation networks. The lands are serviced and are in proximity to parks, trails and other community uses. Provincial policies are in support of providing a broad range of housing.

Planning staff is of the opinion that the proposed application will facilitate the intensification of the subject property with a low-rise missing middle development building form that is compatible with the surrounding community, helps manage growth, is transit-supportive and will make use of the existing infrastructure. No new public roads would be required for the proposed development and Engineering staff have confirmed there is capacity in the sanitary sewer to permit intensification on the subject lands.

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. Policies of the Growth Plan promote growth within strategic growth areas including community areas, in order to provide a focus for investments in transit and other types of infrastructure.

Policy 2.2.6.1(a) states that municipalities will support housing choice through the achievement of the minimum intensification and density 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.

Policies 2.2.1.4 states that complete communities will:

- a) feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities;
- b) improve social equity and overall quality of life, including human health, for people of all ages, abilities, and incomes;
- c) provide a diverse range and mix of housing options, including additional residential units and affordable housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes;
- d) expand convenient access to:
 - i. a range of transportation options, including options for the safe, comfortable, and convenient use of active transportation;
 - ii. public service facilities, co-located and integrated in community hubs;
 - iii. an appropriate supply of safe, publicly accessible open spaces, parks, trails, and other recreational facilities; and
 - iv. healthy, local, and affordable food options, including through urban agriculture;
- e) provide for a more compact built form and a vibrant public realm, including public open spaces;
- f) mitigate and adapt to the impacts of a changing climate, improve resilience, and reduce greenhouse gas emissions, and contribute to environmental sustainability; and
- g) integrate green infrastructure and appropriate low impact development.

The Growth Plan supports planning for a range and mix of housing options and higher density housing options that can accommodate a range of household sizes in locations that can provide access to transit and other amenities.

Planning staff is of the opinion that the application conforms to the Growth Plan. 6 six unit multiple dwelling is an appropriate form of missing middle housing for this location.

Regional Official Plan (ROP):

The subject lands are designated “Urban Area” and “Built-Up Area” on Map 2 of the Regional Official Plan (ROP).

Section 1.6 of the Regional Official Plan establishes 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 intensification targets within the Delineated Built-Up Area, which is set at 60% annually 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. The proposed density will contribute to the achievement of Kitchener’s intensification target for the delineated Built-Up Area of the City of Kitchener.

The Region of Waterloo has indicated they have no objections to the proposed application, subject to adding the prohibition of geothermal wells in the ZBA. (Attachment ‘C’).

Planning staff are of the opinion that the application conforms to the Regional Official Plan as this form of missing middle housing is appropriate for the Built-Up Area.

City of Kitchener Official Plan (OP)

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

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 up to 3 storeys or 11 metres in height. 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. While the maximum Floor Space Ratio (FSR) is 0.6, the Official Plan allows site-specific increases to a maximum of 0.75 may be permitted without an amendment to the Official Plan, provided the development meets the general intent of Official Plan policies and is compatible (Section 15.D.3.11).

Planning staff is of the opinion that the requested Zoning By-law Amendment will facilitate a low-rise housing form that conforms to the Low Rise Residential land use designation in the City's Official Plan. The proposal provides an additional low density housing type within the neighbourhood with a maximum FSR of 0.63 and 3 storeys and 11 metres in height.

Transportation

The City's Official Plan contains policies to develop, support, and maintain a complete, convenient, accessible, and integrated transportation system that incorporates active transportation, public transit, and accommodates vehicular traffic.

Regarding alternate modes of transportation, objectives of the Official Plan include promoting land use planning and development that is integrated and conducive to the efficient and effective operation of public transit and encourages increased ridership of the public transit system. The City shall promote and encourage walking and cycling as safe and convenient modes of transportation.

The proposed development aims to increase density on an existing site that is served by public transit, with access to Grand River Transit Route 7 that connects directly to the Fairway Station ION stop. The proposed development is required to provide safe, secure indoor bicycle storage to encourage active transportation. Staff is of the opinion that the requested Zoning By-law Amendment conforms with the transportation policies of the City's Official Plan. Limited Outdoor amenity space will be provided for residents, and locations of indoor bicycle spaces will be confirmed through the detailed zoning review prior to a building permit being issued.

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 high quality urban design in the review of all development applications through the implementation of the policies of the Official Plan and the City's Urban Design Manual.

The proposed development maintains the existing dwelling and the addition is situated at the rear of existing dwelling to maintain the existing building form and character and to minimize visual impact. The building addition has been designed to limit views onto existing adjacent townhomes. Building materials of the addition are complimentary and in keeping with the existing dwelling. Staff is generally supportive of the Design Brief submitted with the application.

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.1.9. 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. 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: The City will encourage 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.

Based on the planning analysis, Planning staff is of the opinion that Provincial, Regional and City policies support the re-zoning of these lands to allow 'missing middle' housing. As such, staff is of the opinion this application represents good planning and recommends that the proposed By-law amendment be approved in the form shown in Appendix 'A'.

Proposed Zoning By-law Amendment:

The subject lands are currently zoned 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051.

The applicant has requested to change the zoning to 'Low Rise Residential Five Zone (RES-5)' and add a Site-Specific Provision (404) in Zoning By-law 2019-051. The requested change in zoning category is to permit the proposed use of a "Multiple Dwelling" (greater than 4 units).

Site-Specific Provision (404)

- To permit a parking requirement of 0.8 parking spaces per dwelling unit, a minimum of 5 motor vehicle parking spaces; whereas the Zoning by-law requires a minimum of 6 motor vehicle parking spaces – staff is supportive of a reduction of one space given the property is on a bus route.
- To not require dwelling units located at ground floor level to have patio areas adjacent to the dwelling; whereas the Zoning Bylaw requires 2 patio areas for ground floor units – staff is supportive as the property is near parks and open space and on-site amenity will be provided.
- To permit a minimum interior side yard setback of 1.28 metres; whereas the Zoning By-law requires a minimum Interior Side yard setback of 3 metres - this is to recognize the existing setback of the existing dwelling.
- To permit a maximum Floor Space Ratio of 0.63; whereas the Zoning By-law only permits a maximum Floor Space Ratio of 0.6 – staff is supportive of this minor increase as the increase of 0.3 does not pose any additional impacts.
- To permit a minimum of 0 visitor parking spaces; whereas the Zoning By-law requires a minimum of 1 visitor parking space – staff is supportive as 6 dwelling units will not generate significant visitor parking usage and five spaces are provided by tenants. In addition, Vanier Park and Kingsdale Community Service are nearby that offer connections to other parts of the community including bike lanes on First Avenue. These promote bicycle usage and active transportation and reduce dependency on an automobile. A major bus route is on First Avenue that connects directly to the Fairway ION Transit Station.
- To permit a minimum rear yard setback for a parking lot of 1 metre; whereas the Zoning By-law requires a minimum rear yard setback for a parking lot of 1.5 metres – Staff is supportive of this minor reduction to achieve the 5 parking spaces; otherwise, only 4 parking spaces could be provided.
- To permit a minimum side yard setback of a parking lot of 0 metres; whereas the Zoning By-law requires a minimum side yard setback of 1.5 metres – This is to allow for the extension of the existing asphalt line to the rear of the property.
- To permit a minimum drive aisle width of 5.3 metres; whereas the Zoning By-law requires a minimum drive aisle width of 6 metres – The plan shows an existing asphalt width for the existing driveway of 5.3 metres at the front of the property that widens out to 6.5 metres at the rear.

- To permit no street line façade opening whereas the Zoning By-law requires a minimum of 20%. – This regulation would typically apply to a new building but, in this case, this regulation is to recognize an existing condition that cannot meet this regulation as the existing buildings and units will remain.
- To prohibit geothermal wells – This was requested by the Region of Waterloo as the property is located within a wellhead protection area.

STRATEGIC PLAN ALIGNMENT:

Proposed Zoning By-law Amendment Conclusions

Staff is of the opinion that the proposed Zoning By-law Amendment to change the zoning of the subject lands to 'RES-5' with Site Specific Provision (404), represents good planning as it will facilitate the intensification of the property with a 6-unit multiple dwelling, which is compatible with the existing neighbourhood, and is a good example of gentle intensification. Staff are supportive of the proposed development and recommend that the proposed Zoning By-law amendment be approved as shown in Attachment 'A'.

Planning staff are of the opinion that the proposed Zoning By-law 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.

Department and Agency Comments:

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

The following Reports and Studies were considered as part of this proposed Zoning By-law Amendment Application:

- Zoning By-law Amendment Application Form
- Planning Justification Report
- Existing Conditions Plan
- Concept Site Plan
- Urban Design Report
- Building Elevations
- 3D Massing of Building
- Tree Management Plan
- Sustainability Statement
- Parking Justification Study
- Functional Servicing Brief
- Water Distribution Report
- Notice of Source Protection Plan Compliance
- Noise Study (Road)
- Environmental & Stationary Noise Study

WHAT WE HEARD



Three (3) persons provided comments



A City-led Neighbourhood Meeting was held on June 19, 2024, and eight (8) users logged on.



348 households (residents and property owners) were circulated and notified

Staff received written responses from 3 residents with respect to the proposed development. These are included in Attachment 'D.' A summary of what we heard, and staff responses are below.

What We Heard	Staff Comment
Construction and Noise will Impact Neighbour who Works Night	While understanding the concern, property owners are allowed by law to generate construction noise from 7:00 am to 7:00 pm.
Will not be Affordable Housing	Any housing built is a positive to help address a critical housing shortage within our community. this is a small scaled missing middle project that will increase rental supply by 3 units and maintain 3 existing units.

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 application be approved. The proposed application represents an opportunity to provide an alternative housing form within an existing neighbourhood that addresses a need in our community.

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.

The requirement for a municipality to refund planning application fees if a decision is not made within a prescribed timeframe, introduced by Bill 109, More Homes for Everyone Act, 2022, has been rescinded. Decisions on Zoning By-law Amendment Applications are still required within 90 days, and subject to a non-decision appeal risk to the Ontario Land Tribunal after this time period expires. This application was deemed complete on May 28, 2024. The Applicant can appeal this application for non-decision after August 29, 2024.

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 notice sign was posted on the property and information regarding the application was posted to the City’s website in early June. Following the initial circulation referenced below, an additional postcard advising of the statutory public meeting was circulated to all residents and property owners within 240 metres of the subject lands, those responding to the preliminary circulation and who attended the Neighbourhood Meetings. Notice of the Statutory Public Meeting was also posted in The Record on July 19, 2024 (a copy of the Notice may be found in Attachment ‘B’).

CONSULT – The proposed Zoning By-law Amendment was circulated to residents and property owners within 240 metres of the subject lands on June 3, 2024. In response to this circulation, staff received written responses from 3 members of the public, which were summarized as part of this staff report.

PREVIOUS REPORTS/AUTHORITIES:

- Planning Act, R.S.O. 1990, c. P.13
- Provincial Policy Statement, 2020
- Growth Plan, 2020
- Region of Waterloo Official Plan
- City of Kitchener Official Plan, 2014
- City of Kitchener Zoning By-law 2019-051

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

APPROVED BY: Garrett Stevenson, Director, Development and Housing Approvals

ATTACHMENTS:

- Attachment A – Proposed By-law and Map 1
- Attachment B – Newspaper Notice
- Attachment C – Department and Agency Comments
- Attachment D – Community Consultation Comments