

Staff Report



Development Services Department

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REPORT TO: Planning and Strategic Initiatives Committee

DATE OF MEETING: September 16, 2024

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

PREPARED BY: Craig Dumart, Senior Planner, 519-741-2200 ext. 7073

WARD(S) INVOLVED: Ward 9

DATE OF REPORT: August 16, 2024

REPORT NO.: DSD-2024-371

SUBJECT: Zoning By-law Amendment Application ZBA24/017/M/CD
Address: 328-330 Mill Street
Owner: 1658194 Ontario Ltd.

RECOMMENDATION:

That Zoning By-law Amendment Application ZBA24/017/M/CD for 1658194 Ontario Ltd. be refused.

REPORT HIGHLIGHTS:

- The purpose of this report is to evaluate and provide a planning recommendation regarding the Zoning By-law Amendment Application for the property located at 328-330 Mill Street. It is Planning staff's recommendation that the Zoning By-law Amendment Application be refused.
- Community engagement included:
 - circulation of a preliminary notice letter to property owners and residents within 240 metres of the subject site;
 - installation of a large billboard notice sign on the property;
 - follow up one-on-one correspondence with members of the public;
 - Neighbourhood Meeting held on August 6, 2024;
 - postcard advising 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;
 - notice of the public meeting was published in The Record on August 23, 2024.
- This report supports the delivery of core services.
- These applications were deemed complete on June 24, 2024. The Applicant can appeal these applications for non-decision after September 24, 2024.

EXECUTIVE SUMMARY:

Planning staff is recommending refusal of the requested Zoning By-law Amendment Application to add a new Site-Specific Provision to allow for: a reduction in bicycle parking to permit a Class A bicycle parking ratio of 0.535 Class A bicycle spaces per dwelling unit; an increase in the maximum building length of 60.45 metres and a reduction in lot width and in building setbacks and building step backs in the rear, front and side yards which would result in a large 20-storey slab tower that would not meet the direction of the Council approved Tall Building Guidelines or recently approved new Strategic Growth Area (SGA) form based policies and regulations.

The SGA Zoning is an award winning form based zoning approach, adequate justification has not been provided, the requested reductions do not meet the new SGA land use policies in the Official Plan, and many of the requested zoning regulation amendment are not needed if the building was designed to meet the regulations.

SGA Zoning is an approved, bold approach that removed floor space ratio maximums and vehicle parking minimums. These fundamental changes to Kitchener's planning framework are game-changing and visionary; they will allow a lot more housing to be built, more affordably, on a lot less land. The built-form regulations that come with this approach provide a critical balance that protects for the health, safety and quality of life of all community members, existing and new.

BACKGROUND:

The Owner, 1658194 Ontario Ltd., has made an application to the City of Kitchener for a Zoning By-law Amendment proposing to amend the zoning of the lands at 328-330 Mill Street to add a new Site-Specific Provision to allow for; a reduction in bicycle parking to permit a Class A bicycle parking ratio of 0.535 Class A bicycle spaces per dwelling unit; an increase in the maximum building length of 60.45 metres and a reduction in lot width and in building setbacks and building step backs in the rear, front and side yards which would result in a large 20-storey slab tower that would not meet the direction of the Council approved Tall Building Guidelines or recently approved new Strategic Growth Area (SGA) form based policies and regulations.

The subject lands are located within the City's delineated built up area, within a Major Transit Station Area. In March of 2024 Council approved 'Growing Together' which changed the land use of the subject lands to 'Strategic Growth Area - C (SGA-C)' in the City of Kitchener's Official Plan and the zoning to 'Strategic Growth Area Three Zone (SGA-3)' in Zoning By-law 2019-051.

The SGA-C land use designation is applied to large, underutilized sites and properties next to ION station stops, where high-density intensification can be supported, is expected, and is planned for.

Existing SGA-3 zoning permissions include:

- Residential and Commercial uses.
- Maximum building height of 28 storeys.
- 0 vehicle parking spaces required.
- 1 Class A (indoor secured) Bicycle Parking Space required per dwelling unit.

- Form based regulations for towers such as building length and floor plate area maximums, as well as physical separation.



Figure 1: Existing Planning Land Use

Site Context

The subject lands are addressed as 328-330 and are situated within a “Protected Major Transit Station Area” as identified on the City’s Urban Structure map in the Official Plan. The subject lands are comprised of two parcels of lands municipally known as 328 and 330 Mill Street. The consolidated parcels form a large irregular parcel of land having an area of 0.31 hectares (0.77 acres) with frontage along Mill Street. The subject lands are currently developed with a commercial office building at 330 Mill Street and a single detached dwelling at 328 Mill Street. The surrounding neighbourhood is developed with a range of commercial, industrial and institutional uses along with a mix of high, medium and low density residential dwellings.



Figure 2 – Location Map: 328-330 Mill Street

REPORT:

The applicant is proposing to develop the lands with a 20-storey mixed-use building, having 293 dwelling units with commercial units on the ground floor.

The ‘as of right’ new ‘SGA-3’ zoning Council Approved in March 2024 permits a 28-storey mixed-use development with 0 parking spaces. The applicant is requesting a Zoning By-law Amendment to Zoning By-law 2019-051 to add a new Site-Specific Provision to allow for; a reduction in bicycle parking to permit a Class A bicycle parking ratio of 0.535 Class A spaces per dwelling unit; an increase in the maximum building length of 60.45 metres and a reduction in lot width and in building setbacks in the rear, front and side yards as follows:

For Entire Building:

- Reduce the minimum front, rear and westerly interior side yard setbacks from 3.0 metres to 1.0 metre.
- Reduce a portion of the easterly interior side yard setback from 3 metres to 1.0 metre to accommodate a portion of the parking garage structure.

For Storeys 7-12

- Reduce the minimum front yard setback from 6.0 metres to 3.3 metres.
- Permit a maximum building length of 60.45 metres whereas a maximum building length of 60.0 metres is permitted.
- Reduce the minimum physical distance from 6 metres to 4.9 metres to the east lot line and 5.4 metres to the north lot line.

For Storeys 13-18

- Reduce the minimum front yard setback for storeys 13-17 from 6.0 metres to 3.3 metres.

- Permit a maximum building length of 60.45 metres for storeys 13-15 whereas a maximum building length of 54.0 metres is permitted.
- Reduce the minimum physical distance from 9 metres to 6.0 metres for storeys 13-17 and 7.0 metres for storey 18 to the west lot line, 5.4 metres for storeys 13-17 to the north lot line and 4.9 metres to the east lot line.

For Storeys 19-20

- Reduce the minimum lot width from 42.0 metres to 38.63 metres.
- Reduce the minimum physical distance from 12 metres to 4.9 metres to the east lot line and 7.0 metres to the west lot line.

The subject lands are currently designated and zoned for redevelopment and the existing zoning allows for a mixed used building up to 28 storeys in height. Staff are not supportive of this proposed 20 storey building with reduced building setbacks and step backs, as the subject lands are large enough to accommodate a well-designed mixed used building that positively contributes to the public realm and city's skyline and meets the in place form based zoning regulations and Tall Building Guidelines. A redesigned building taller (up to 28 storeys in height) that meets the zoning setbacks and steps will allow for 293 dwelling units or more with commercial units on the ground floor.



Figure 3 – Proposed Building Rendering

Planning Analysis:

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 has approved an integrated province-wide land use planning policy document, replacing the current Provincial Policy Statement and A Place to Grow: Growth plan for the Greater Golden Horseshoe, with a singular Provincial Planning Statement (PPS) which will come into effect October 20, 2024 (after a decision is made on these applications).

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 designation and zoning facilitate a compact form of development which efficiently uses the lands, is near transit options including bus, rapid transit, 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. The proposed mixed-use development represents an attainable form of market-based housing.

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. The subject lands are in close proximity to transit, trails, and parks.

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, in particular, 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.

Regional Official Plan (ROP):

Urban Area policies of the ROP identify that the focus of the Region's future growth will be within the Urban Area. The subject lands are designated Built-Up Area in the ROP. This neighbourhood provides for the physical infrastructure and community infrastructure to support the proposed residential development, including transportation networks, municipal drinking-water supply and wastewater systems, and a broad range of social and public health services. Regional policies require Area Municipalities to plan for a range of housing in terms of form, tenure, density and affordability to satisfy the various physical, social, economic and personal support needs of current and future residents.

The subject lands are located in the Mill Station (MTSA) in the ROP. The minimum density target within the Mill Station MTSA is 160 residents and jobs/ha. The density proposed through this application exceeds the density target of 160 residents and jobs/ha on a site specific basis and the proposed development would contribute to the achievement of the overall density target for the Mill Station MTSA. Regional policies require Area Municipalities to plan for a range of housing in terms of form, tenure, density and affordability to satisfy the various physical, social, economic and personal support needs of current and future residents.

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

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.

Complete Community

A complete community creates and provides access to a mix of land uses including, a full range and mix of housing, including affordable housing, recreation, commerce, community and cultural facilities, health care facilities, employment, parks and open spaces distributed and connected in a coherent and efficient manner. A complete community also supports the use of public transit and active transportation, enabling residents to meet most of their daily needs within a short distance of their homes. Kitchener will be planned as a complete community that creates opportunities for all people to live, work and interact within close proximity. Planning for a complete community will aid in reducing the cost of infrastructure and servicing, encourage the use of public transit and active modes of transportation, promote social interaction, and foster a sense of community.

The applicant is proposing to contribute to a complete community with 293 residential units and future commercial uses on the subject lands.

Urban Structure

The Official Plan establishes an Urban Structure for the City of Kitchener and provides policies for directing growth and development within this structure. Intensification Areas

are targeted throughout the Built-up Area as key locations to accommodate and receive the majority of development or redevelopment for a variety of land uses. Primary Intensification Areas include the Urban Growth Centre, Protected Major Transit Station Areas, Nodes and Corridors, in this hierarchy, according to Section 3.C.2.3 of the Official Plan. The subject lands are located within a Protected Major Transit Station Area. The planned function of the Protected Major Transit Station Areas is to provide densities that will support transit, and achieve a mix of residential, office, institutional and commercial uses. They are also intended to have streetscapes and a built form that is pedestrian-friendly and transit-oriented.

Policies also require that development applications in Protected Major Transit Station Areas give consideration to the Transit-Oriented Development policies contained in Section 13.C.3.12 of the Official Plan. Generally, the Transit-Oriented Development policies support a compact urban form, that supports walking, cycling and the use of transit, by providing a mix of land uses in close proximity to transit stops, to support higher frequency transit service and optimize transit rider convenience. These policies also support developments which foster walkability by creating safe and comfortable pedestrian environments and a high-quality public realm. Staff is of the opinion that the proposed development will help to increase density in an area well served by nearby transit and future rapid transit while being context sensitive to surrounding lands and provides excellent access to off-road pedestrian and cycling facilities. Given the close proximity to various cycling networks the minimum Class A bicycle parking needs to continue to be met through the implementing zoning to encourage alternative, sustainable modes of transportation.

The proposed development is located in a prime location for high intensity mixed use development. The subject lands are in close proximity to the Mill Station ION Stop. Future redevelopment of the lands will support the City's policies for a Major Transit Station Area and also contributes to the vision for a sustainable and more environmentally-friendly city.

Land Use

The subject lands are designated 'Strategic Growth Area C' in the City of Kitchener's Official Plan.

The 'Strategic Growth Area C' land use designation is intended to accommodate significant intensification at high density. Lands designated 'Strategic Growth Area C' are generally centrally located within Intensification Areas and/or represent redevelopment opportunities at higher density. It is anticipated that some areas within the 'Strategic Growth Area C' land use designation will require the assembly of lands for development. Further, some lands designated 'Strategic Growth Area C' are adjacent to lands planned for medium rise uses or which contain existing low rise residential uses. As such, the implementing zoning may restrict building height as an interim measure to ensure orderly development through a development application demonstrating that the policies of this plan are met.

3.C.2.11. The City will discourage a reduction in the lot area of property if the reduction in lot area has the potential to compromise intensification. Consolidation of properties will be encouraged in the interest of comprehensive planning to

achieve better site configuration, the provision of amenities and land use and design efficiency.

- 15.D.2.5. Notwithstanding policies 4.C.1.8 and 4.C.1.9, site specific applications which seek relief from the implementing zoning through a minor variance(s) or amendment to the Zoning By-law, and/or seek to amend this Plan will consider the following factors:
- a) compatibility with the planned function of the subject lands and adjacent lands;
 - b) suitability of the lot for the proposed use and/or built-form;
 - c) lot area and consolidation as further outlined in Policy 3.C.2.11;
 - d) compliance with the City's Urban Design Manual and Policy 11.C.1.34;
 - e) cultural heritage resources, including Policy 15.D.2.8; and,
 - f) technical considerations and other contextual or site specific factors.
- 15.D.2.6. The implementing zoning may regulate matters related to built form including, but not limited to, building length, floor plate area, on-site separation between buildings, and off-site separation between buildings.
- 15.D.2.7. Large scale developments will be expected to provide appropriate landscaping in accordance with the City's Urban Design Manual through the Site Plan Control process.
- 15.D.2.75. Lands designated Strategic Growth Area C may have no maximum building height. The implementing zoning may limit building heights.
- 15.D.2.76. Where the implementing zoning has a maximum building height in accordance with Policy 15.D.2.46, the City may consider site specific increases to the permitted building height in accordance with Policy 15.D.2.5.

Design in Protected Major Transit Station Areas

- 11.C.1.34. New tall building development and/or redevelopment will have consideration for tall building design principles including physical separation, overlook, relative height, floor plate area, building length, tower placement, orientation and building proportion, among others. The City will provide design criteria for tall buildings through zoning regulations and the urban design manual, where appropriate. This is to:
- a) mitigate environmental impacts caused by tall buildings such as shadows, accelerated winds, access to light and sky and more;

- b) create high-quality design relationships between the built-forms of multiple adjacent or nearby towers that account for occupant privacy and quality of life, contribute toward a visually interesting skyline, and ensure good compatibility between buildings in dense, urban environments.
- c) ensure good compatibility with surrounding low and mid-rise contexts.
- d) ensure that the development of future, adjacent or nearby tall buildings is not frustrated and can continue to achieve high-quality design principles.

11.C.1.36. In addition to the policies in this section, development and/or redevelopment and public works will require a high standard of urban design in Protected Major Transit Station Areas and will require a site specific urban design brief and/or urban design report in accordance with Section 17.E.10 to demonstrate how the development application exemplifies high quality urban design and will contribute to the public realm and placemaking in the station area and around the station stop.

11.C.1.37 The City will require development and/or redevelopment and public works in the Protected Major Transit Station Area to support and contribute to a high quality public realm. To do this the City will:

- a) ensure streetscape design supports safe and comfortable walking, cycling and rolling throughout the station area, including to and from transit stops.
- b) require a high quality public realm at grade which includes sidewalks, street furniture, street trees and landscaping. Where this is not achieved within the public right of way, encourage these placemaking elements to be located on private property or in shared ownership.
- c) require developments to support, maintain and/or increase the tree canopy, where possible, to support Kitchener's Sustainable Urban Forestry Strategy.
- d) encourage Low Impact Development ("LID") water management techniques, including materials and plantings that have a high infiltration rate within boulevards and setbacks, to reduce the impact on the city's stormwater management system;
- e) encourage landscape screening between the public right of way and any visible surface parking, loading/service areas or back of house functions.
- f) encourage pedestrian shelter and bicycle parking along streets that connect to transit stops and/or contain existing or planned active transportation infrastructure.
- g) encourage direct connections from private and public development to existing and proposed active transportation infrastructure, such as public trails;

- h) encourage the provision of public open spaces, public art, wayfinding, and other creative placemaking interventions in private developments; and,
- i) require active transportation connections and mid-block connections through development and/or redevelopment, where appropriate.”

Tall Building Guidelines

The proposed development has also been reviewed for compliance with the City’s Design for Tall Buildings Guidelines. The objective of this document is to:

- achieve a positive relationship between high-rise buildings and their existing and planned context;
- create a built environment that respects and enhances the city’s open space system, pedestrian and cyclist amenities and streetscapes;
- create human-scaled pedestrian-friendly streets, and attractive public spaces that contribute to livable, safe and healthy communities;
- promote tall buildings that contribute to the view of the skyline and enhance orientation, wayfinding and the image of the city;
- promote development that responds to the physical environment, microclimate and the natural environment including four season design and sustainability; and,
- promote tall building design excellence to help create visually and functionally pleasing buildings of architectural significance.

The proposed development concept has been reviewed for conformity of the requested zoning amendment with the intent of the Official Plan. City staff have concerns with the proposed tower as it does not implement the overall intent of the City’s Design for Tall Building Guidelines. More specifically, the proposed development does not fully meet the off-site separation distance requirements of the Design for Tall Building Guidelines and Growing Together zoning regulations.

The Council approved Growing Together framework was developed using built-form zoning regulations such as building length and floor plate area maximums, as well as physical separation. These work in combination to protect the privacy of new residents, ensure access to light for all units, and provide “breathing space” between buildings much like yard setbacks do for single detached houses. It also limits shadow, wind and other impacts on existing and future nearby residents. Without these regulations, buildings can create significant effects on the surrounding environment and can impact the future development potential of nearby properties.

Transportation Policies:

The Official Plan supports an integrated transportation system which incorporates active transportation, allows for the movement of people and goods and promotes a vibrant, healthy community using land use designations and urban design initiatives that make a wide range of transportation choices viable. The subject lands are located in close proximity to the Mill ION Station Stop. The building has excellent access to cycling networks, including existing on and off-street cycling facilities and is located in close proximity to the Iron Horse Trail. The location of the subject lands, in the context of the

City's integrated transportation system, supports the proposal for transit-oriented development on the subject lands. Given the close proximity to various cycling networks the minimum Class A bicycle parking needs to continue to be met through the implementing zoning to encourage alternative, sustainable modes of transportation.

Sustainable Development

Section 7.C.4.1 of the City's Official Plan ensures developments will increasingly be sustainable by encouraging, supporting and, where appropriate, requiring:

- a) compact development and efficient built form;
- b) environmentally responsible design (from community design to building design) and construction practices;
- c) the integration, protection and enhancement of natural features and landscapes into building and site design;
- d) the reduction of resource consumption associated with development; and,
- e) transit-supportive development and redevelopment and the greater use of other active modes of transportation such as cycling and walking.

Development applications are required to demonstrate that the proposal meets the sustainable development policies of the Plan and that sustainable development design standards are achieved.

Sustainable development initiatives will be further implemented at the site planning approval process through the detailed design review of a future building that complies with the form based zoning regulations.

Proposed Zoning By-law Amendment (Zoning By-law 2019-051)

The applicant is proposing to develop the lands with a 20-storey mixed-use building, having 293 dwelling units with commercial units on the ground floor.

The 'as of right' new 'SGA-3' zoning Council Approved in March 2024 permits a 28-storey mixed-use development with 0 parking spaces. The applicant is requesting a Zoning By-law Amendment to Zoning By-law 2019-051 to add a new Site-Specific Provision to allow for; a reduction in bicycle parking to permit a Class A bicycle parking ratio of 0.535 Class A bicycle spaces per dwelling until; an increase in the maximum building length of 60.45 metres and a reduction in lot width and in building setbacks and building step backs in the rear, front and side yards. Staff are not supportive of the 11 requested site specific regulations as follows:

For Entire Building:

1. Reduce the minimum front, rear and westerly interior side yard setbacks from 3.0 metres to 1.0 metre.

This change requires justification that has not been provided. What site specific factors prevent the setback from being met and how is the intent of the regulation (adequate space between buildings, room for landscaped area, tree canopy and drainage, access

to light, privacy and safety for building occupants, and more) met through other means?

2. Reduce a portion of the easterly interior side yard setback from 3 metres to 1.0 metre to accommodate a portion of the parking garage structure.

This change requires justification that has not been provided. What site specific factors prevent the setback from being met and how is the intent of the regulation (adequate space between buildings, room for landscaped area, tree canopy and drainage, access to light, privacy and safety for building occupants, and more) met through other means?

3. Reduce the minimum required Class A Bicycle Parking Stalls from 1 per dwelling unit to 0.535 per dwelling unit.

Transportation Services and Planning Staff do not support the requested bicycle parking rate. A key principle of the Strategic Growth Area land uses and zones is that we can plan for the newly increased density permissions within the Growing Together planning framework only if there is a significant reduction the space needed to accommodate personal vehicles and return the space typically used for cars back to the people who will be living in these very dense developments. Part of this requires that people have more mobility options that are conveniently accommodating, including but not limited to Class A secure bicycle parking.

For Storeys 7-12

4. Reduce the minimum front yard setback from 6.0 metres to 3.3 metres.

This change would negatively impact the ability of the development to achieve a human-scale along Mill Street. This will impact pedestrian comfort, reduce access to daylight and increase cumulative wind impacts. Meeting this regulation would also allow the building to meet the maximum building length regulation of 60 metres.

5. Permit a maximum building length of 60.45 metres whereas a maximum building length of 60.0 metres is permitted.

This change is minor and could be supported if the building were able to achieve other regulations, particularly in this case physical separation. However, other, related regulations are not met, nor is a site-specific contextual justification provided for why they are not met, nor is it demonstrated how the intent of the regulations is being met in other ways.

6. Reduce the minimum physical distance from 6 metres to 4.9 metres to the east lot line and 5.4 metres to the north lot line.

(east) This change may be supportable if it were sufficiently demonstrated that a building above 6-storeys is not possible on the adjacent lot to the east. This justification has not been provided.

(north) This change is minor and could be supported if the building were able to achieve other regulations, particularly in this case building length (which it does not) and other physical separations (which it does not).

For Storeys 13-18

7. Reduce the minimum front yard setback for storeys 13-17 from 6.0 metres to 3.3 metres.

This change would negatively impact the ability of the development to achieve a human-scale along Mill Street. This will impact pedestrian comfort, reduce access to daylight and increase cumulative wind impacts. Meeting this regulation would decrease the building length from 60.45 metres to approximately 57.75 metres. Further, meeting the physical separation requirement of 9 metres (item 9) rather than the proposed 5.4 metres would reduce the building length to approximately 54.0 metres, or the building length maximum in the regulation. As demonstrated, these adjustments show how the built-form regulations combine to ensure compatible development and work relative to one another to be easily achievable with minor adjustments.

8. Permit a maximum building length of 60.45 metres for storeys 13-15 whereas a maximum building length of 54.0 metres is permitted.

As demonstrated above, minor adjustments to the front yard setback to meet the regulation and minor adjustments to the rear-yard physical separation to meet the regulation, would also result in the building length maximum being met. These regulations determine the maximum permitted density on a property and ensure adequate building performance to protect for the health, safety, privacy and security of building occupants, mitigate against cumulative environmental impacts such as shadows and wind, and more. Moreover, because these building regulations determine density permissions within a development, it is critical that they be met so enable our ability to continue to plan for the orderly development of our intensification areas, plan for future infrastructure, and ensure that all lands within our intensification areas maintain their ability to develop to the permissions granted by the Strategic Growth Area land uses and zones.

9. Reduce the minimum physical distance from 9 metres to 6.0 metres for storeys 13-17 and 7.0 metres for storey 18 to the west lot line, 5.4 metres for storeys 13-17 to the north lot line and 4.9 metres to the east lot line.

Justification for this change has not been provided, nor has it been demonstrated how the intent of the regulation has been met. See above comments for further information on why this justification is necessary and how meeting the regulations ensures the orderly development of Kitchener's intensification areas, particularly within a framework where the maximum permitted density of a development is determined via these regulations and not through flat caps on Floor Space Ratio or Gross Floor Area as is the case in other cities.

For Storeys 19-20

10. Reduce the minimum lot width from 42.0 metres to 38.63 metres.

Minimum lot width was determined through modeling and analysis as the minimum amount of land required to meet the density regulations in the Strategic Growth Area zones. As demonstrated above, the proposed development fails to meet a range of important regulations, and it is therefore not demonstrated that the proposal can adequately meet the intent of the minimum lot width regulation and a reduction to that lot width is therefore not justified.

11. Reduce the minimum physical distance from 12 metres to 4.9 metres to the east lot line and 7.0 metres to the west lot line.

Justification for this change has not been provided, nor has it been demonstrated how the intent of the regulation has been met. See above comments for further information on why this justification is necessary and how meeting the regulations ensures the orderly development of Kitchener's intensification areas, particularly within a framework where the maximum permitted density of a development is determined via these regulations and not through flat caps on Floor Space Ratio or Gross Floor Area as is the case in other cities. This change would negatively impact the ability of neighbouring properties to redevelop. It would compromise the quality of life, safety and privacy of building occupants. Along with several of these other unmet regulations, it would create a scenario where residents of this building would rent or purchase a unit but be unaware that a neighbouring building at a similar scale could be built very closely on a neighbouring property, having a detrimental impact on their quality of life that they would be unable to account for.

Proposed Zoning By-law Amendment Conclusions

Staff is of the opinion that the proposed Zoning By-law Amendment to add a new Site Specific Provision to allow for a reduction in bicycle parking to permit a Class A bicycle parking ratio of 0.535 Class A bicycle spaces per dwelling until; an increase in the maximum building length of 60.45 metres and a reduction in lot width and in building setbacks and building setbacks in the rear, front and side yards has not been justified and recommends that the proposed Zoning By-law Amendment Application be refused.

Department and Agency Comments:

Circulation of the Zoning By-law Amendment Application was undertaken in June 2024 to all applicable City departments and other review authorities. Concerns were identified by commenting City departments and staff are not in a position to support the proposed Zoning By-law Amendment. Copies of the comments are found in Attachment 'B' of this report.

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

- **Planning Justification Report**
Prepared by: JV Development and Planning Consulting, March 2024
Addendum Letter prepared June 2024.
- **Archaeological Assessment**
Prepared by: ARA Heritage, February 2024
- **Urban Design Report**
Prepared by: Masri O Architects, March 2024
- **Shadow Study**
Prepared by: Masri O Architects, March 2024
- **Transportation Impact and Parking Justification Study**
Prepared by: Paradigm Transportation Solutions, February 2024
- **Functional Servicing and Stormwater Management Report**
Prepared by: MTE Engineering, February 2024
- **Sustainability Statement**
Prepared by: Masri O Architects, March 2024
- **Road-Rail-Traffic & Stationary Noise Impact Study**
Prepared by: Acoustic Engineering Inc, November 2023

Community Input & Staff Responses

WHAT WE HEARD



419 addresses (occupants and property owners) were circulated and notified



4 people/households/businesses provided comments



A City-led Neighbourhood Meeting was held on August 6, 2024, and 8 users logged on

Staff received written responses from 4 residents with respect to the proposed development. The comments received are included in Attachment 'C'. A Neighbourhood

Meeting was held on August 6, 2024. A summary of what we heard, and staff responses are noted below.

What We Heard	Staff Comment
Concerns the proposed development will create traffic that existing roads can not handle.	A Traffic Impact Study was submitted and reviewed by City and Regional Transportation staff who did not identify any major traffic concerns as a result of the proposed development nor were any new traffic signals warranted as a result of the proposed development.
The building should not exceed 5-6 storeys in height.	The as of right Land use and Zoning permits up to 28 Storeys in height.
Affordable Units should be provided and the development should be subject to Inclusionary Zoning	A mix of dwelling unit types and unit sizes are proposed. The two (2) bedroom dwelling units could offer a more affordable option for future owners/tenants who could share some living costs. The subjects are located just within a PMTSA (Protected Major Transit Station Areas) and the City's Inclusionary Zoning regulations will apply starting in 2025.
Three bedroom units should be included in the proposed development.	<p>The City of Kitchener does not regulate number of bedrooms. While the City does not regulate the number of bedrooms, a mix of unit types is strongly encouraged.</p> <p>In September 2022, we received new housing census data – we know;</p> <ul style="list-style-type: none"> ▪ We have 99,805 dwelling units in Kitchener 61% are 3+ bedrooms. <p>We also know household data now as well:</p> <ul style="list-style-type: none"> ▪ 58% of households have 1-2 people (26% 1 person, 32% 2 people). ▪ 15% of all dwellings are in buildings greater than 5 storeys. <p>When a comparison is made between the household and housing data, we have 27,000 3+ bedroom homes which are occupied by one or two people. This means that 44% of all large units in Kitchener have more bedrooms than people living in the dwelling.</p>

Planning Conclusions

In considering the foregoing staff remaining supportive of the Council approved SGA-3 formed based zoning regulations and a redesign of building for the subject lands is required. Planning staff are recommending that the Zoning By-law Amendment application be Refused.

Planning staff are not satisfied with the justification provided for the requested reductions in these regulations. Much of the relief requested, if not all, with these applications is not needed with a redesign of this building and/or an additional lot consolidation.

Built-form zoning regulations are a critical component of building a healthy, safe environment for all who live, work, and visit Kitchener's PMTSAs, while still allowing for abundant housing supply. Planning staff cannot support an application that could have the potential to frustrate or neutralize development on neighbouring sites.

ALIGNMENT WITH CITY OF KITCHENER STRATEGIC PLAN:

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 - 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. One large notice sign was posted on the property and information regarding the application was posted to the City's website in June of 2024. 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, and those responding to the preliminary circulation. Notice of the Statutory Public Meeting was also posted in The Record on August 23, 2024 (a copy of the Notice may be found in Attachment 'A').

CONSULT – The proposed Zoning By-law Amendment were circulated to residents and property owners within 240 metres of the subject lands on June 24, 2024. In response to this circulation, staff received written responses from 4 members of the public, which were summarized as part of this staff report. Planning staff also had one-on-one conversations with residents on the telephone and responded to emails.

PREVIOUS REPORTS/AUTHORITIES:

- *Planning Act, R.S.O. 1990, c. P.13*
- *Growth Plan, 2020*
- *Provincial Policy Statement, 2020*
- *Regional Official Plan*

- *City of Kitchener Official Plan, 2014*
- *City of Kitchener Zoning By-law 2019-051*
- [*Growing Together – Protected Major Transit Station Area Land Use and Zoning Framework DSD-2024-005*](#)
- [*Supplemental Report to DSD-2024-005: Growing Together – Protected Major Transit Station Area Land Use and Zoning Framework DSD-2024-128*](#)

REVIEWED BY: Tina Malone-Wright, Manager, Development Approvals

APPROVED BY: Justin Readman - General Manager, Development Services

ATTACHMENTS:

Attachment A – Newspaper Notice

Attachment B – Department and Agency Comments

Attachment C – Public Comments