

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: September 17, 2024

SUBMITTED BY: Tina Malone-Wright, Manager, Development Approvals
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PREPARED BY: Tim Seyler, Senior Planner, 519-741-2200 ext. 7860

WARD(S) INVOLVED: Ward 9

DATE OF REPORT: September 4, 2024

REPORT NO.: DSD-2024-399

SUBJECT: Minor Variance Application A2024-076 – 332 Charles St. E.

RECOMMENDATION:

That Minor Variance Application A2024-076 for 332 Charles Street East requesting relief from Appendix D, Special Regulation Provision 803R of Zoning By-law 85-1 to permit the following:

- i) a minimum ground floor building height along Charles Street of 4.2 metres instead of the minimum required 4.5 metres;
- ii) a minimum westerly side yard abutting a street (Betzner Avenue South) of 6.9 metres at 6 storeys or greater instead of at 5 storeys or greater;
- iii) a maximum westerly side yard abutting a street (Betzner Avenue South) of 7.1 metres at 6 storeys or greater instead of at 5 storeys or greater;
- iv) a minimum easterly side yard setback of 6.8 metres for 6 storeys to 14 storeys instead of the minimum required 4.9 metres from 5 storeys to 14 storeys;
- v) a maximum easterly side yard setback of 7 metres for 6 storeys to 14 storeys instead of the maximum permitted 5.1 metres for 5 storeys to 14 storeys;
- vi) a minimum easterly side yard setback of 6.8 metres at 15 storeys or greater from the minimum required 6.9 metres at 15 storeys or greater;
- vii) a maximum rear yard setback of 9.7 metres at 6 storeys or greater from the maximum permitted 9.1 metres at 5 storeys or greater;
- viii) a maximum front yard setback of 3.2 metres at 15 storeys or greater from the maximum permitted 1.9 metres at 15 storeys or greater;
- ix) a minimum easterly side yard setback of 0.7 metres for the 5th to 6th storey stairwell instead of the minimum required 4.9 metres; and
- x) a minimum rear yard setback of 3.1 metres for the 5th to 6th storey stairwell instead of the minimum required to 8.9 metres;

to facilitate the construction of a 27 storey building having 285 dwelling units, in accordance with Conditionally Approved Site Plan Application SP24/017/C/CD, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to facilitate the construction of a 27 storey building containing 285 dwelling units.
- 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 on the north side of Charles Street East between Cameron Street South and Pandora Avenue South.



Figure 1: Location Map: 332 Charles Street East

The subject property is identified as ‘Major Transit Station Area’ on Map 2 – Urban Structure and is designated ‘Mixed Use Corridor with Special Policy Area 1 (Map 10) in the King Street East Secondary Plan in the City’s 1994 Official Plan.

The property is zoned ‘High Intensity Mixed Use Corridor Zone (MU-3) with Special Regulation Provision 803R and Holding Provision 108H’ in Zoning By-law 85-1.

The subject property was subject to an Official Plan Amendment and Zoning By-law Amendment in August 2023. The applications were approved to permit the construction of a 27 storey residential building by Kitchener City Council.

Through the Site Plan Application process the proposed building design has been refined resulting in an improved building/built form. The proposed variances are all being requested as part of the Conditional Approval of Site Plan Application SP24/017/C/CD, which application has been thoroughly reviewed by City Staff. Accordingly, there are no Staff concerns with the variances that are being proposed.

It should also be noted that through the Growing Together update to the Official Plan and Zoning By-law, the property will be designated and zoned 'Strategic Growth Area C' and 'SGA-3'. Transition provisions for the property were also put in place as a Complete Site Plan Application was made on or after the effective day of the By-law which permits the development to move forward. A majority of the requested variances will not be required when the 'SGA-3' Zone comes into full force and effect, and only pertain to By-law 85-1.

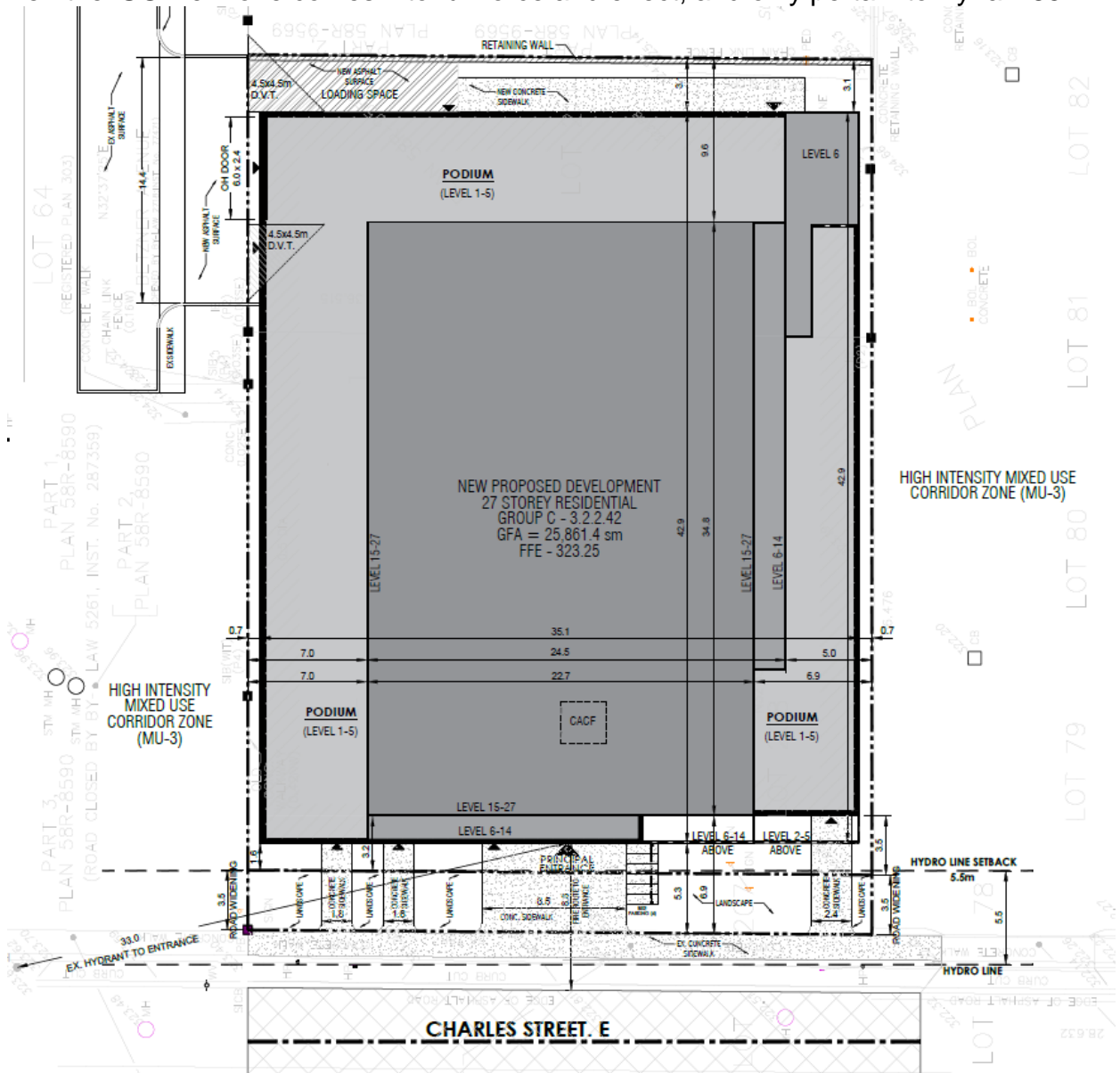


Figure 2: Proposed Site Plan



Figure 3: Current site conditions – 332 Charles Street East

REPORT:

Planning Comments:

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

General Intent of the Official Plan

The subject lands are designated 'Mixed Use Corridor with Special Policy Area 1' (Map 10) in the King Street East Secondary Plan (1994 Official Plan). The Mixed Use Corridor land use designation provides residential redevelopment opportunities together with appropriate commercial and institutional uses that primarily serve adjacent residential neighbourhoods. Over time it is intended that the Mixed Use Corridors shall intensify and provide a balanced distribution of commercial, multiple residential and institutional uses. Staff is of the opinion that the variances meet the general intent of the Official Plan.

General Intent of the Zoning By-law

Minimum ground floor building height

The intent of the minimum ground floor building height regulation is to ensure a ground floor space that can accommodate active uses on the ground floor of the building and adequately address and enhance the streetscape. Staff have reviewed plans as part of the site plan application and the applicant is providing adequate glazing and enhancements to the lobby area. The reduction of 0.3 meters is minimal and will not have any impact in the overall building design or ground floor uses.

Minimum and maximum side yard and rear yard setbacks at 5 storeys or greater

The intent of the minimum and maximum setbacks for 5 storeys or greater was to ensure that there was adequate transition and range in separation from adjacent existing buildings and land use. The request for the minimum and maximum setbacks to be permitted for 6 storeys, is due to the adjustment of the podium through the site plan stage. The visual impact of the alterations of the podium height will be minimal and adequate separation is still taken into account through the building design. The rear yard setbacks have been increased further from the property line to ensure further separation.

Minimum and Maximum setback 5 to 14 storeys

The intent of the minimum and maximum setbacks for 5 storeys or greater was to ensure that there was adequate transition and range in separation from adjacent existing buildings and land use. As the podium height has been increased by 1 storey, the setbacks will commence on a storey higher than what is permitted. The setbacks have been pushed 1.9 meters and 0.1 metres further from the property line, to take into account the increase in podium height.

Minimum front yard setback 15 storeys or greater

The intent of the minimum front yard setback is to help reduce the massing at the front of the building in order to create a better pedestrian experience along the front of the building. The new design of the building has increased the setback 2.2 metres from the property line, which helps reduce the massing and positively alters the appearance and reduces the massing along the Charles Street side of the building.

Stairwell projections and setbacks

The intent of the side and rear yard setbacks for the stairwell is to ensure that the stairwell and buildings do not negatively impact the adjacent properties and do not encroach into the abutting lands. The proposed setbacks take into account the adjusted podium height and will not negatively impact the surrounding properties.

Staff is of the opinion that the variances meet the general intent of the Zoning By-Law.

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

Staff is of the opinion that the requested variances are minor as the variances that are requested are to enhance an approved development. The proposed variances will not present any significant impacts to adjacent properties or the overall streetscape and neighbourhood.

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

The proposed variances are desirable and appropriate for the development and use of the land as their approval will facilitate the construction of a new building within a Major Transit Station Area.

Environmental Planning Comments:

No natural heritage features or functions. Tree Management Policy concerns addressed through SP24/017/C/CD.

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 new residential apartment building is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

No engineering comments or concerns.

Parks/Operations Division Comments:

All Parks requirements will be addressed through the Site Plan Application SP24/017/C/CD.

Transportation Planning Comments:

Transportation Services have no concerns with this application.

STRATEGIC PLAN ALIGNMENT:

This report supports the delivery of core services.

FINANCIAL IMPLICATIONS:

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

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

COMMUNITY ENGAGEMENT:

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

PREVIOUS REPORTS/AUTHORITIES:

- *Planning Act*
- *Provincial Policy Statement (PPS 2020)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan*
- *Official Plan (2014)*
- *Zoning By-law 85-1*
- *DSD-2023-300*