

# Staff Report



Development Services Department

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

**DATE OF MEETING:** October 28, 2024

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

**PREPARED BY:** Andrew Pinnell, Senior Planner, 519-741-2200 ext. 7668

**WARD INVOLVED:** Ward 9

**DATE OF REPORT:** October 17, 2024

**REPORT NO.:** DSD-2024-430

**SUBJECT:** Zoning By-law Amendment Application ZBA24/021/V/AP  
169-183 Victoria Street South  
100002286 Ontario Ltd., Legion Heights Victoria Inc.,  
2306975 Ontario Inc.

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## RECOMMENDATION:

That Zoning By-law Amendment Application ZBA24/021/V/AP requesting to amend Zoning By-law 85-1, for 100002286 Ontario Ltd., Legion Heights Victoria Inc., and 2306975 Ontario Inc., be approved in the form shown in the 'Proposed By-law' and 'Map No. 1' attached to Report DSD-2024-430 as Attachment 'A', and

That Zoning By-law Amendment Application ZBA24/021/V/AP requesting to amend Zoning By-law 2019-051, for 100002286 Ontario Ltd., Legion Heights Victoria Inc., and 2306975 Ontario Inc., be approved in the form shown in the 'Proposed By-law' and 'Map No. 1' attached to Report DSD-2024-430 as Attachment 'B'; and

That the Proposed By-law to amend Zoning By-law 2019-051, as amended by By-law 2024-065, shall have no force and effect until By-law 2024-065 (Growing Together PMTSAs) is in full force and effect, and further

That the Urban Design Brief prepared by GSP Group Inc., dated October 2024, attached as Attachment 'C' to report DSD-2024-430, be endorsed, and that staff be directed to implement the Urban Design Brief through a future Site Plan Approval process, and at the discretion of the City's Director of Development and Housing Approvals, significant changes to the Urban Design Brief will be to the satisfaction of Council.

## **REPORT HIGHLIGHTS:**

- The purpose of this report is to evaluate and provide a planning recommendation regarding the Zoning By-law Amendment application for the subject lands, located at 169-183 Victoria Street South. It is Development and Housing Approvals staff's recommendation that the Zoning By-law Amendment be approved and the Urban Design Brief be endorsed.
- The requested amendment supports the redevelopment of the lands with an 8-storey multiple dwelling consisting of approximately 120 dwelling units (rental units), in the place of four single detached dwellings and one four-plex. Approximately 24 dwelling units are proposed to be provided as affordable housing.
- Community engagement included:
  - Circulation of a preliminary notice letter to property owners and residents within 240 metres of the subject property;
  - Installation of three notice signs on the property;
  - Follow up one-on-one correspondence with members of the public;
  - Neighbourhood Meeting held on September 25, 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 October 4, 2024.
- This report supports the delivery of core services.
- This application was deemed complete on August 13, 2024. The Applicant can appeal this application for non-decision after November 11, 2024.

## **EXECUTIVE SUMMARY:**

The owners of the subject property, addressed as 169-183 Victoria Street South, are requesting to change the zoning to allow the redevelopment of the subject property with an eight-storey, 28.8 metre high, mid-rise residential apartment building with a total of approximately 120 units. The building would contain two floors of underground parking, with eight above-grade storeys containing a mixture of 1-, 2-, and 3-bedroom rental units as well as a ground-floor amenity room, private balconies, an outdoor common amenity area, and a play area abutting Henry Street.

To facilitate the development concept, the applicant is requesting a Zoning By-law Amendment (ZBA) to change the zoning from 'Low Intensity Mixed Use Corridor Zone (MU-1)' to 'Medium Intensity Mixed Use Corridor Zone (MU-2)' to in Zoning By-law 85-1 with a Special Regulation Provision. However, it should be noted that the lands are also subject to the City-initiated ZBA that emerged from the City's Growing Together Study (i.e., By-law 2024-065). By-law 2024-065, which would apply the 'Mid Rise Growth Zone (SGA-2)' to the subject property, is under appeal with the Ontario Land Tribunal (OLT). Should the appeal for the City-initiated ZBA be resolved by the OLT between the submission of this report and the Planning and Strategic Initiatives Committee (PSIC) meeting, the SGA-2 Zone would be retained and the requested ZBA would add a Site Specific Provision, to facilitate the same development concept.

Under either scenario, Development and Housing Approvals staff is recommending that the application be approved.

## **BACKGROUND:**

The City of Kitchener has received an owner-initiated Zoning By-law Amendment (ZBA) Application to facilitate redevelopment of the lands with an 8-storey multiple dwelling consisting of approximately 120 dwelling units (rental units), including 24 affordable units. The ZBA would change the zoning under By-law 85-1 from MU-1 Zone to MU-2 Zone and add a site specific provision to, for example, allow a building height of 28.8 metres (8 storeys), regulate certain setbacks, allow a floor space ratio of 4.2, not require community or commercial use on the ground floor. The lands are also subject to a City-initiated ZBA that emerged from the City's Growing Together Study (By-law 2024-065). By-law 2024-065, which would apply the 'Mid Rise Growth Zone (SGA-2)' to the subject property, is under appeal with the Ontario Land Tribunal (OLT).

## **Site Context**

The subject property is addressed as 169-183 Victoria Street South and owned by three companies: 1000002286 Ontario Ltd., Legion Heights Victoria Inc., and 2306975 Ontario Inc. The property is located at two intersections (1. Victoria Street South at Park Street, and 2. Victoria Street South at Henry Street) and is bounded by Victoria Street South to the northwest, Park Street to the northeast, and Henry Street to the southwest. The property is located diagonally across from the Downtown boundary. The subject property is a combination of five separate residential properties, none of which form part of the adjacent Victoria Park Heritage Conservation District to the southeast.

The subject property has an approximate lot area of 0.2 hectares (0.5 acres) with a frontage of approximately 62.4 metres on Victoria Street, 25 metres of frontage on Park Street, and 30.5 metres of frontage on Henry Street. The subject lands are currently used and occupied as follows:

<b>Address</b>	<b>Land Use</b>	<b>Status (Vacant / Occupied)</b>
169 Victoria Street South	Single Detached Dwelling	Occupied
173 Victoria Street South	Single Detached Dwelling	Occupied
177 Victoria Street South	Single Detached Dwelling	Occupied
179 Victoria Street South	Single Detached Dwelling	Occupied
183 Victoria Street South	Four-plex	Occupied

All five of the properties (8 dwellings units) are collectively subject to the City's new Rental Replacement By-law, which protects rental units that are subject to a Planning Act application. Units in buildings subject to an application that have been vacant for less than six months are subject to the By-Law's obligation to provide an equal number of affordable rental units in the proposed development.

Tenants are offered the choice of three forms of compensation:

1. A rent payout equal to 10 times the monthly rent of the unit, and an agreement to vacate the unit thereafter.
2. A rent exemption for a period of one year, and an agreement to vacate the unit thereafter.

3. A temporary replacement unit provided by the applicant and rented at the same rate as their existing unit, and the first right of refusal to accept a permanent replacement unit in the proposed development once complete.

The subject property is located within 730 metres walking distance to the Central Station ION stop. Additionally, the property is located on the 20 Victoria-Frederick local GRT route and is within walking distance to many other GRT transit routes (i.e., 204 iXpress, Routes 1, 3, 4, 7, 16, and 35). The property is located close to several City parks including, Victoria Park (190 metres) and Cherry Park (385 metres). The Iron Horse Trail is located 400 metres away.

The surrounding lands contain a wide range of existing and proposed land uses, of various heights and densities. The lands immediately to the southeast, on Park Street, Henry Street, and Devon Street, are part of the Victoria Park Heritage Conservation District (VPHCD) and the prominent built form is currently low rise residential uses (mainly single detached dwellings). The property immediately to the southeast, on Park Street (i.e., 59 Park Street), is located within the VPHCD and is owned by one of the same companies that is requesting the subject ZBA.

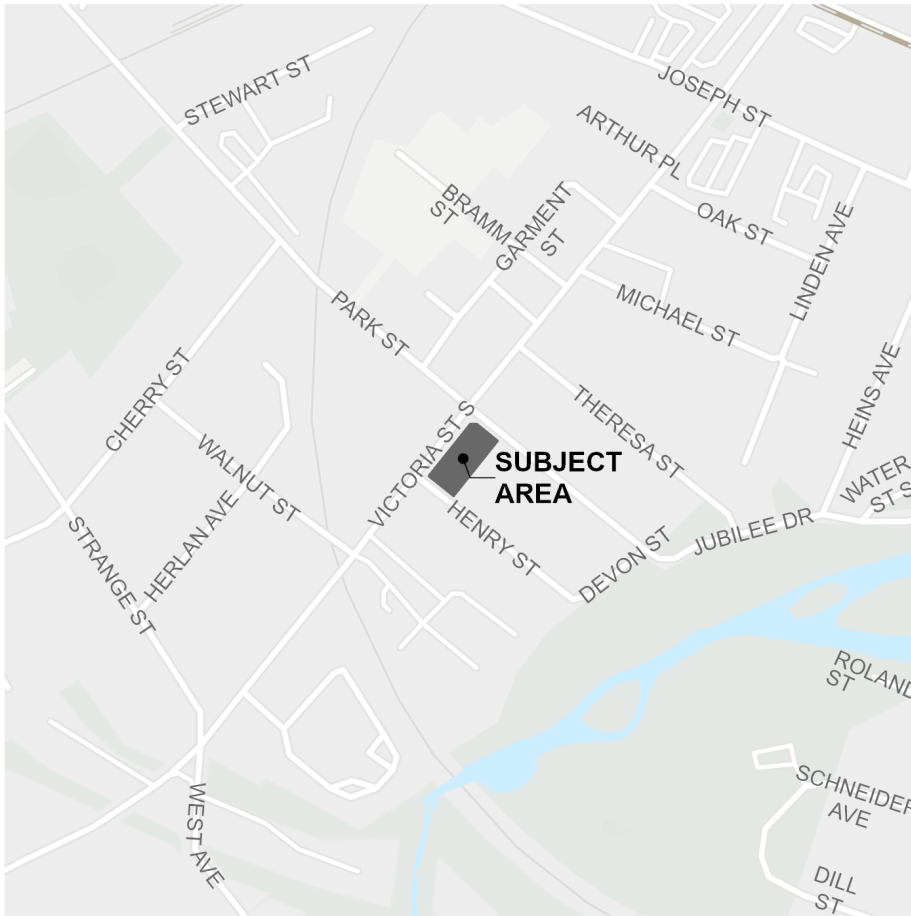
Lands to the southwest comprise a mix of low and medium rise residential uses as well as commercial uses. Lands to the northeast comprise a mix of low rise residential and commercial uses on the south side of Victoria Street and commercial uses on the north side of Victoria Street.

It should be noted two large-scale redevelopments have been recently approved, in proximity to the subject property:

- On June 26, 2023, Council approved Official Plan and Zoning By-law Amendments to permit a high-density, mixed-use development for 97-101 Park Street and 186 - 194 Victoria Street South. The amendments will facilitate the development of 436 residential units and 807 square metres of commercial space with a maximum FSR of 7.7 and maximum building height of 42-storeys, and
- On April 27, 2023, the Ontario Land Tribunal allowed Official Plan and Zoning By-law Amendments to permit a high-density mixed-use development for 146-162 Victoria Street South and 92-110 Park Street. The amendments will facilitate the development of a 3-tower (38, 36, & 25 storeys), mixed use building containing 1,124 residential dwelling units and 1,750 square metres of commercial floor space on the ground floor, with a maximum FSR of 11.7. It should also be noted that Conditional Site Plan Approval was issued on June 16, 2023.

Since the subject property fronts onto three streets, it is considered both a through lot and a corner lot under the Zoning By-law. For the purposes of lot orientation, Henry Street is considered the front yard, Victoria Street South is the side lot line abutting a street / exterior side yard, and Park Street is the rear yard. The other property line, abutting the low rise residential lands to the southeast, is the interior side lot line.

**Figure 1 - Location Map: 169-183 Victoria Street South**



**REPORT:**

**Proposed Development Concept:**

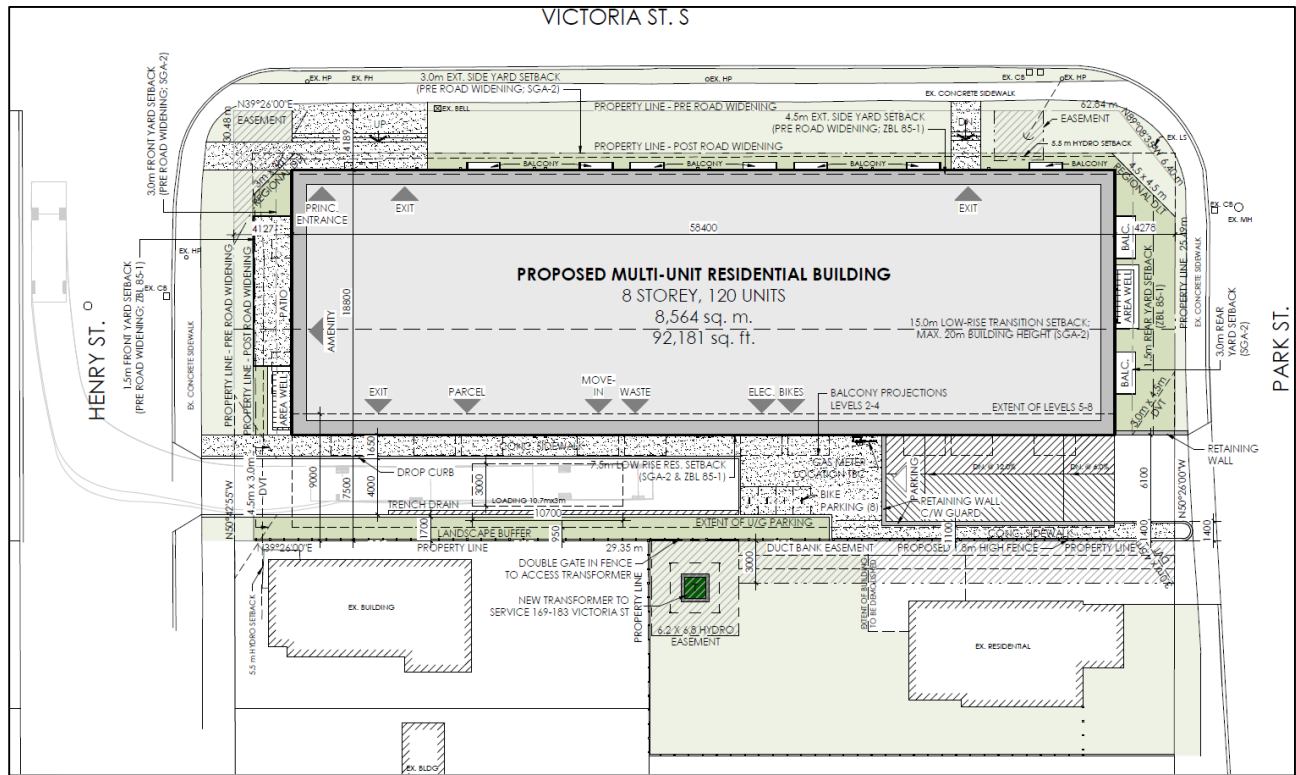
The applicant is proposing to redevelop the subject property with a mid-rise residential apartment building (Multiple Dwelling). The building is proposed to have a height of eight-storeys and 28.8 metres and contain a total of approximately 120 dwelling units (rental units). The building would contain two floors of underground parking, with eight above-grade storeys containing a mixture of 1-, 2-, and 3- bedroom units as well as a ground-floor amenity room, private balconies, an outdoor common amenity, and a play area abutting Henry Street (note the applicant advises that he is willing to adjust the floor plan, through future City processes, to integrate 3 to 5 three-bedroom units). A total of 120 Class A bicycle parking stalls are proposed, and 8 Class B stalls outside, at grade. No surface parking is proposed.

Table 1, below, highlights the development concept statistics while Figures 2, 3 and 4 show the development concept site plan and building elevations.

**Table 1 – Proposed Development Concept Statistics**

	<b>Development Concept</b>
<b>Number of Dwelling Units</b>	120 (subject to adjustment to integrate 3 to 5 three-bedroom units through minor building refinement)
<b>Parking Spaces</b>	53 (2 levels of underground parking; no surface parking)
<b>Building Height</b>	28.8 metres / 8 storeys
<b>Class A Bicycle Parking (within an enclosed, secure area with controlled access)</b>	120 stalls (62 stalls in dedicated ground floor bicycle rooms; and 58 in a dedicated P2 level bicycle room)
<b>Class B Bicycle Parking (short-term)</b>	8 stalls (outdoor; at-grade)
<b>Floor Space Ratio</b>	4.2
<b>Unit Types</b>	Subject to adjustment to integrate 3 to 5 three-bedroom units through minor building refinement: <ul style="list-style-type: none"> <li>• 92 - one-bedroom units (76.7%)</li> <li>• 28 - two-bedroom units (23.3%)</li> </ul>
<b>Landscaped Area</b>	364.4 square metres (20%)

**Figure 2 – Conceptual Site Plan**



To facilitate the proposed development concept, a Zoning By-law Amendment (ZBA) is required to change the zoning of the subject property since, for example, the current zoning



permits a maximum building height of 13.5 metres and a maximum floor space ratio of 2.0. The current zoning would not allow the proposed redevelopment. The details of the ZBA are discussed in detail in the *Requested Zoning By-law Amendment* section of this report.

**Figure 3 – Conceptual Rendering showing the proposed building from the intersection of Henry Street at Victoria Street South, looking East.**



**Figure 4 – Conceptual Rendering showing the proposed building from the intersection of Park Street at Victoria Street South, looking West.**



**Figure 5 – Conceptual Rendering showing the proposed building from Henry Street, looking North.**



**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, 2024, 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, 2024 and to ensure Provincial policy is adhered to.

### **Provincial Policy Statement, 2024:**

The Provincial Planning Statement (PPS), 2024 is a streamlined province-wide land use planning policy framework that replaces both the Provincial Policy Statement, 2020 and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 while building upon housing-supportive policies from both documents. The PPS 2024 would come into force on October 20, 2024.

According to the Province, the PPS 2024 provides municipalities with the tools and flexibility they need to build more homes. It enables municipalities to:

- plan for and support development, and increase the housing supply across the province
- align development with infrastructure to build a strong and competitive economy that is investment-ready
- foster the long-term viability of rural areas
- protect agricultural lands, the environment, public health and safety

Sections 2.1.6 and 2.3.1.3 of the PPS 2024 promote planning for people and homes and supports planning authorities to support general intensification and redevelopment while achieving complete communities by, accommodating an appropriate range and mix of land uses, housing options, transportation options with multimodal access, employment, public service facilities and other institutional uses, recreation, parks and open space, and other uses to meet long-term needs.

### **Regional Official Plan (ROP):**

The subject property is located in the Urban Area, Delineated Built Up Area, and Central Station Major Transit Station Area (MTSA) in the 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.

Growth is directed to the Built Up Area of the Region to make better use of infrastructure that can assist in transitioning the Region into an energy efficient, low carbon community. Furthermore, intensification within the Built Up Area assists the gradual transition of existing neighbourhoods within the Region into 15-minute neighbourhoods that are compact, well connected places that allow all people of all ages and abilities to access the needs for daily living within 15 minutes by walking, cycling or rolling. 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.

Section 2.D.2 of Regional Official Plan Amendment 6 (ROPA 6) establishes policies for development within Major Transit Station Areas (MTSAs). The policies within this section support the provision of increased mixed-use densities that are transit supportive. The minimum density target established for the Central Station MTSA is 160 people and jobs/hectare.

The proposed development conforms the ROP, since the proposed development helps to achieve the planned intensification target. Moreover, the proposed built form provides a mix of unit types and is appropriately located along a corridor in which growth can be located close to transit and active transportation services and infrastructure. In addition, Chapter 3 of ROPA 6 establishes policies for housing in the Region. The proposed development meets the intent of these policies.

Regional staff has advised that it has no objections to the proposal, subject to:

1. Implementation of a holding provision requiring the completion of a detailed noise study prior to site plan approval, and
2. Implementation of a site specific provision to prohibit geothermal energy systems.

In this regard, the recommended Zoning By-law Amendment implements the Region's requests.

### **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.

### 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 (Downtown), Protected Major Transit Station Areas (PMTSAs), City Nodes, Community Nodes, and Urban Corridors, in this hierarchy, according to Section 3.C.2.3 of the Official Plan.

The subject lands are located within the Central Station PMTSA, being located only 730 metres walking distance to the station stop. Per Policy 3.C.2.17, the planned function of PMTSAs, in order to support transit and rapid transit, is to:

- a) provide a focus for accommodating growth through development to support existing and planned transit and rapid transit service levels;
- b) provide connectivity of various modes of transportation to the transit system;
- c) achieve a mix of residential, office (including major office), institutional (including major institutional) and commercial development (including retail commercial centres), wherever appropriate; and,
- d) have streetscapes and a built form that is pedestrian-friendly and transit-oriented.

Policy 3.C.2.18 states that the Central Station Protected Major Transit Station Area shall be planned to achieve a *minimum* density of 160 residents and jobs per hectare.

The subject proposal will assist the City in achieving the above noted density target. It is estimated that based on 120 dwelling units, the proposed building would result in

approximately 214 residents and based on a net site area of 0.18 hectares would result in a density of 1,190 residents per hectare. This would significantly assist in supporting rapid transit and local transit within this PMTSA.

Staff is of the opinion that the requested Zoning By-law Amendment will support redevelopment that conforms to the City's PMTSA policies.

### Land Use Designation

It should be noted that the Victoria Park Secondary Plan has been repealed when the subject property was designated 'Strategic Growth Area A' (Land Use) in the City of Kitchener Official Plan, as amended by the Official Plan Amendments that emerged from the City's Growing Together Study (i.e., OPA 49 and OPA 133). The 'Strategic Growth Area A' designation is generally intended to accommodate intensification within:

- existing predominantly low-rise residential neighbourhoods,
- lands further away from Rapid Transit station stops, and/or
- lands where existing lots are generally too small to support high rise buildings.

It is anticipated that the majority of development and/or redevelopment within this designation will occur through infill including missing middle housing and compatible non-residential uses.

The 'Strategic Growth Area A' policies state that this land use designation "will accommodate a range of low and medium density residential housing types including those permitted in the Low Rise Residential and Medium Rise Residential land use designation." No building is permitted to exceed 8 storeys in height, though zoning may require building heights less than 8 storeys. In this case, the proposed redevelopment consists of an 8-storey, mid-rise residential apartment building of the type permitted in the Medium Rise Residential designation. The proposal conforms in this regard.

Policy 15.D.2.67 states that where the implementing zoning does not permit the maximum building height, the City may consider site specific increases to the permitted building height in accordance with Policy 15.D.2.5 via a Zoning By-law Amendment (ZBA).

In this case, the above policies apply directly, since the implementing zoning reduces the maximum building height to 20.0 metres, within 15 metres of a lot with a low-rise residential zone [the lands immediately to the southeast are zoned Low Rise Residential Four Zone (RES-4)]. In contrast, the proposed building height is 8 storeys / 28.8 metres, with a setback of 7.5 metres to the adjacent RES-4 Zone.

In accordance with the above policies, the applicant is requesting a ZBA. Policy 15.D.2.5 states that site specific applications, which seek relief through ZBAs 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.

Moreover, Policy 15.D.2.37 states, “Where new development or redevelopment is proposed at the edge of a strategic growth area land use designation, the scale and massing it will consider *compatibility* with and transition to the *adjacent* land use designation.”

With regard to the above policies, Development and Housing Approval (DHA) staff is of the opinion that the proposed development, which is located at the edge of the ‘Strategic Growth Area A’ land use designation, where it abuts lands that are designated Low Rise Residential, is compatible with the adjacent low rise residential lands. It should be noted that the proposal complies with the transition provision in the SGA-2 Zone that requires a minimum 7.5 metre yard setback where the lot abuts a lot with a low-rise residential zone. Also, the proposal provides a 1.5 metre building setback at the 5<sup>th</sup> floor, which provides additional separation, beyond the 7.5 metre rear yard setback (and this setback is provided earlier than the zoning regulation requires: approximately at the 14.5 metre building height rather than at the 20 metre building height). It should further be noted that one of the lots that immediately abuts the subject property is owned by the developer for the subject property (i.e., 59 Park Street).

The development site, which is composed of five lots that have been consolidated to facilitate comprehensive redevelopment, is suitable to support the proposed built-form and land use. In addition, Urban Design staff has reviewed the proposal against the City’s Urban Design Manual and is supportive of the proposal. DHA staff is recommending that the Urban Design Brief, submitted in support of the subject application, be endorsed by Council and that staff be directed to implement the Urban Design Brief through a future Site Plan Approval process. Moreover, Heritage Planning staff reviewed the Heritage Impact Assessment, submitted in support of the subject application, and is of the opinion that the proposal will not impact or have a minor impact on the value or significance of cultural heritage resources and adjacent cultural heritage resources. Necessary mitigation and conservation measures will be implemented through a future site plan application process.

#### **Policy Conclusion:**

DHA staff is of the opinion that the requested Zoning By-law Amendment Application is consistent with policies of the Provincial Policy Statement, 2024, the Regional Official Plan, and City of Kitchener Official Plan.

#### **Requested Zoning By-law Amendment:**

To facilitate the proposed development concept outlined in the *Proposed Development Concept* section of this report, the applicant is requesting a Zoning By-law Amendment (ZBA). The property is currently zoned ‘Low Intensity Mixed Use Corridor Zone (MU-1)’ in Zoning By-law 85-1. However, it should be noted that the lands are also subject to the City-initiated ZBA that emerged from the City’s Growing Together Study (i.e., By-law 2024-065). By-law 2024-065, which would apply the ‘Mid Rise Growth Zone (SGA-2)’ to the subject property, is under appeal with the Ontario Land Tribunal (OLT).

In the case that no decision is issued by the OLT on the appeal prior to the PSIC meeting, to facilitate the proposed development concept, the applicant is requesting to change the zoning from Low Intensity Mixed Use Corridor Zone (MU-1) to Medium Intensity Mixed Use

Corridor Zone (MU-2) with a Special Regulation Provision (SRP) under By-law 85-1 (see Attachment 'A').

In addition, the Regional Municipality of Waterloo is requesting that two zoning provisions be applied, as follows:

1. A holding provision requiring the completion of a detailed noise study, prior to site plan approval, and
2. A site specific prohibition on geothermal energy systems.

In the case that the appeal no longer has implications for the subject lands prior to the PSIC meeting, the applicant is requesting to retain the SGA-2 Zone and modify the zoning request to add a Site Specific Provision (SSP) to facilitate the same development concept (see Attachment 'B'). The same Region-related zoning provisions would be applied under this scenario.

A zoning comparison table is provided below. Red text within a 'Requirement' column denotes that the proposed development concept would be deficient under the specified zoning; bolded, red text with an asterisk under the 'Proposed / Provided' column denotes the extent of the deficiency and, consequently, the need for relief via a requested Special Regulation Provision (By-law 85-1) and/or Site Specific Provision (By-law 2019-051, as amended by By-law 2024-065), as part of the Zoning By-law Amendment Application:

**Table 2 – Zoning Comparison / Review Table**

	<b>Requirement under Current MU-1 Zone (By-law 85-1)</b>	<b>Requirement under Requested MU-2 Zone (By-law 85-1; without Requested Special Regulation Provision)</b>	<b>Requirement under Council-Approved, Appealed SGA-2 Zone (amendment to By-law 2019-051; without Site Specific Provision)</b>	<b>Proposed / Provided (Note that figures are pre-road-widening, per Section 5.9 of By-law 85-1 / 4.21 of By-law 2019-051).</b>
<b>Minimum Lot Width (Henry St)</b>	15 m	15 m	30.0 m	30.49 m
<b>Minimum Lot Area</b>	N/A	N/A	1,500 m <sup>2</sup>	2,025.9 m <sup>2</sup>
<b>Minimum Yard Setback</b>	N/A	N/A	3.0m	<b>*2.843 m (at Park St Corner Visibility Area)</b>
<b>Minimum Front Yard Abutting a Street (Henry St)</b>	1.5 m	1.5 m	N/A	4.13 m

<b>Minimum Side Yard Abutting a Street (Victoria St)</b>	4.5 m	1.5 m	N/A	4.189 m
<b>Maximum Front Yard (Henry St)</b>	7.5 m	7.5 m	N/A	4.13 m
<b>Maximum Side Yard Abutting a Street (Victoria St)</b>	7.5 m	7.5 m	N/A	4.189 m
<b>Minimum Width of Primary Ground Floor Façade</b>	50%	50%	N/A	>50%
<b>Minimum Rear Yard</b>	7.5 m	7.5 m	N/A	*4.278 m
<b>Minimum Rear Yard Abutting any Residentially Zoned Property</b>	N/A since rear yard does not technically abut a residentially zoned property	N/A since rear yard does not technically abut a residentially zoned property	N/A	N/A
<b>Minimum Façade Height</b>	6.0 m	6.0 m	N/A	28.8 m
<b>Maximum Building Height</b>	13.5 m	24.0 m	20.0m within 15m of lot with a low-rise residential zone	*28.8 m
<b>Minimum Yard Setback where the Lot Abuts a Lot with a Low-Rise Residential Zone</b>	N/A	N/A	7.5 m	7.5 m
<b>For Storeys 7 and Above: Minimum Yard Setback</b>	N/A	N/A	6.0 m	*4.189 m (at Victoria St); 2.843 m at Park St CVT); 4.13 m (at Henry St); 4.278 m (at Park St)



<b>For 7 Storeys and Above: Maximum Building Length</b>	N/A	N/A	60.0 m	58.4 m
<b>For 7 Storeys and Above: Maximum Floor Plate Area</b>	N/A	N/A	2,000 m <sup>2</sup>	1,097.3 m <sup>2</sup>
<b>Minimum Floor Space Ratio</b>	0.6	1.0	1.0	4.2
<b>Maximum Floor Space Ratio</b>	2.0	4.0	N/A	*4.2
<b>Location of Dwelling Unit</b>	Shall not be located on the ground floor unless located within a building used only as a multiple dwelling	Shall not be located on the ground floor unless located within a building used only as a multiple dwelling	N/A	N/A since building is used only as a multiple dwelling
<b>Minimum Façade Openings</b>	N/A for residential uses	N/A for residential uses	10%	31%
<b>Minimum Street Line Façade Openings</b>	N/A	N/A	20%	29%
<b>Minimum Landscaped Area</b>	10%	10%	20%	20%
<b>Motor Vehicle Parking</b>	Not required per Bill 185	Not required per Bill 185	Not required per Bill 185	53 spaces
<b>Driveway Visibility Triangle</b>	4.57 m	4.57 m	N/A [see 4.5e)]	*4.2 m
<b>Balconies</b>	Balconies may extend within any yard provided that the minimum setback from a front lot line is 3.0 metres	Balconies may extend within any yard provided that the minimum setback from a front lot line is 3.0 metres	N/A [see 4.14.2d)]	*1.281 m

<b>Priority Streets 6.6a)i)</b>	N/A	N/A	A Community Use or Commercial Use listed in Table 6-1 shall occupy a minimum of 50% of the street line ground floor	<b>*No Community or Commercial Uses</b>
<b>Priority Streets 6.6a)vi)</b>	N/A	N/A	The minimum street line ground floor façade openings shall be 40%	<b>*29%</b>
<b>Loading Spaces</b>	N/A	N/A	Shall not be permitted within 7.5 metres of an abutting residential zone.	<b>*2.4m</b>

The SGA zoning applied to the subject lands was part of the comprehensive, City-initiated Zoning By-law review through Growing Together Study. Official Plan policies noted above provide direction for consideration where relief is requested from the SGA zoning regulations, based on a site-specific review and technical studies. The subject proposal represents one of the first privately-initiated ZBAs to request site specific zoning regulations.

Considering this, staff has reviewed the supporting site-specific technical studies and ZBA requests, including SRPs/SSPs, against the considerations outlined in Policy 15.D.2.5 of the Official Plan and is satisfied that the ZBA is justified. Furthermore, DHA staff has the following additional comments regarding the requested ZBA (also see the above noted Kitchener Official Plan comments, which speak to requested zoning relief for building height adjacent to low rise residential zones):

- Consideration should be given to relief sought related to setbacks to lot lines abutting a street since the subject property represents a unique situation where the property abuts streets on three sides, and the front lot line is deemed to be the side street (i.e., Henry Street). If the lot was oriented such that Victoria Street was the front lot line, SRPs/SSPs would not be required for the minimum rear yard setback and the minimum balcony setback. Moreover, the minimum balcony setback request under By-law 85-1 does not conflict with the Council-approved SGA-2 Zone, which does not require a balcony setback.
- The increased maximum Floor Space Ratio (FSR) request under By-law 85-1 does not conflict with the Council-approved SGA-2 Zone, which does not have an FSR maximum.

- The Driveway Visibility Triangle (DVT) relief request under By-law 85-1 does not conflict with the Council-approved SGA-2 Zone, which does not require DVTs within SGA zones.
- The request for relief from the requirement to provide Community Use or Commercial Use along 50% of the street line ground floor on a Priority Street is supportable. The proposed development has been designed to accommodate the existing grades along Victoria Street South. The main building entrance and lobby are located at the corner of Henry Street and Victoria Street South, which represents the most accessible and flattest portion of the site. However, the grade slopes downward towards Park Street, representing an approximate 1-2 metre decrease in elevation. The existing grading makes it difficult to provide accessible and active commercial and community spaces along the Victoria Street frontage. In addition, there is no surface parking at the rear of the site to allow for commercial parking. It should be noted that the approved developments on the opposite side of Victoria Street have the advantage of greater depth due to lot consolidation, which allows greater potential for Commercial / Community use. In this case, the narrow depth of the subject property makes providing Commercial / Community uses challenging, noting that the Victoria Park Heritage Conservation District limits the lot depth. Also, Henry Street is one-way, so commercial vehicles would need to traverse the neighbourhood to access the loading area. Furthermore, the rear loading area adjacent to the low rise uses might need to be expanded if Commercial / Community uses were proposed. The balance of Victoria Street is a Priority Street and many other opportunities are provided for these non-residential uses to be provided. From a design perspective, the main entrance to the building is on Victoria Street and seven dwelling units, each having balconies that face the street, are located on Victoria Street.
- The request for relief from the requirement to provide 40% façade openings along the ground floor façade is supportable. The proposed elevation along Victoria Street South includes substantially sized windows and exterior doors, which equates to approximately 29% of openings along the street line façade. In addition, the elevations along Victoria Street include varied building materials, articulations and architectural patterns to further enhance animation and activation of the street. The proposed building has been reviewed comprehensively from an urban design perspective, including review of an Urban Design Brief (UDB). Urban Design staff is supportive of recommending that the UDB be endorsed to provide design direction for the future site plan application.
- The request for relief from the loading space setback to a low rise residential zone is supportable since a 1.8m high wood fence will be provided along the lot line that will act as a visual barrier. It is unlikely that a full-size garbage truck would provide waste/ recycling collection.

*Region-Related Zoning Provisions:*

DHA staff supports the Region's request for a Holding Provision to require a noise study and implementation measures, and the SRP/SSP to prohibit geothermal systems. The former seeks to protect future residents from transportation and stationary noise sources that may generate noise levels beyond provincial guidelines. The latter would prohibit geothermal systems that might otherwise cause contamination to the region's groundwater resources, noting that the property is located within a Wellhead Protection Area and Chloride Issue Contributing Area of the Greenbrook wellfield.

*Proposed Zoning By-law Amendment Application Conclusions:*

DHA staff is of the opinion that the requested ZBA Application represents good planning as it will facilitate the redevelopment of the lands with a “missing middle” housing, in a mid-rise built form, including the provision of approximately 120 rental dwelling units (including 24 affordable units). A mix of dwelling unit types is proposed, including 3 to 5 three-bedroom units. The proposed development will provide a compatible transition from the 38 and 42 storey-developments planned for the opposite side of Victoria Street to the low rise residential neighbourhood to the southeast. The proposal will also provide visual interest along Victoria Street.

For the site-specific reasons outlined throughout this report, the requested zoning regulations are appropriate for the subject property, based on the policies and criteria that emerged from the City’s Growing Together Study. The characteristics of the subject property and policy context are unique. Accordingly, the draft by-laws recommended by staff are context-specific and should not be considered as a precedent to be applied beyond the subject property / proposed development.

In this context, DHA staff supports the proposed development and recommends that the requested Zoning By-law Amendment Application be approved, as shown in Attachment ‘A’ and Attachment ‘B’.

**Department and Agency Comments:**

Circulation of the Zoning By-law Amendment application was undertaken to all applicable City departments and other review authorities on August 16, 2024. No major concerns were identified by any commenting City department or agency and any necessary revisions and updates have been completed. Copies of the comments are found in Attachment ‘E’ of this report.

The following reports and studies were considered as part of this proposed Zoning By-law Amendment:

Planning Justification Report  
Prepared by: GSP Group, June 2024

Urban Design Brief  
Prepared by: GSP Group, October 2024

Architectural Drawings, Elevation Drawings, Floor Plans, Cross-Sections and Renderings  
Prepared by: ABA Architects Inc., June 6, 2024

Noise and Vibration Impact Study  
Prepared by: RWDI, April 5, 2024 (with revised drawings submitted May 9, 2024)

Functional Servicing and Stormwater Management Report  
Prepared by: Walter Fedy, April 30, 2024

Functional Grading and Functional Servicing Plans  
Prepared by: Walter Fedy, October 6, 2023

Sustainability Statement  
Prepared by: GSP Group, June 7, 2024

Transportation Impact Study and Parking Study  
Prepared by: Paradigm Transportation Solutions Limited, June 2024

Arborist Report  
Prepared by: GSP Group, March 28, 2024

Vegetation Management Plan  
Prepared by: GSP Group, March 28, 2024

Cultural Heritage Impact Assessment  
Prepared by: McCallum Sather, June 2024

Topographic Survey  
Prepared by: McKechnie Surveying Ltd, May 10, 2023

**Community Input & Staff Responses:**

Staff received written responses from 14 residents in response to the circulation of the ZBA application. Responses are included in Attachment ‘F’. A Neighbourhood Meeting was held on September 25, 2024. A summary of what staff heard from the community, along with City staff responses, are noted below (i.e., Table 3).

**Table 3 – Community Comments and City Staff Responses**

<b>What Staff Heard from the Community</b>	<b>Development &amp; Housing Approvals Staff Response</b>
<p><u><i>Built Form &amp; Character Concerns:</i></u></p> <ul style="list-style-type: none"><li>- A better ground-floor presence (towns/ commercial);</li><li>- Unit typology;</li><li>- Amenity space;</li><li>- Height;</li><li>- Approval of building design;</li><li>- Total number of affordable units;</li><li>- Rental building or condominium;</li><li>- Sustainable and climate resilient development-built form;</li><li>- Total number of homes to be demolished;</li><li>- Density;</li><li>- The proposal is incompatible in terms of scale;</li><li>- The existing character and charm of the area will be negatively impacted;</li></ul>	<p>The owner has stated that the proposed development will be a fully rental building and is seeking funding through CMHC, which requires at least 20% of units to have rents below 30% of the median total income of families and the total residential rental income must be at least 10% below its gross achievable residential income in order to qualify. As a result, approximately 24 dwelling units will be provided as affordable housing. In addition, the development will be subject to the City’s new Inclusionary Zoning requirements if building permits are issued after December 31, 2024.</p> <p>Staff discussed the issue of unit variety with the applicant. The applicant has changed the unit mix within the proposed building to now include 3 to 5 three-bedroom units, as a minor building refinement to the currently proposed 92 one-bedroom units and 28 two-bedroom units.</p>

<ul style="list-style-type: none"> <li>- Management of new development;</li> <li>- Setbacks.</li> </ul>	<p>Staff is of the opinion that the 8-storey building height is supportable given the stepback at the 'rear' of the building (at the fifth storey) and provision of a 7.5 metre rear yard setback. The building is a mid-rise apartment building, that will provide an appropriate transition between the 38 and 42 storey buildings planned on the opposite side of Victoria Street and the low rise residential lands to the southeast.</p> <p>The proposal will greatly exceed the City's new SGA-2 minimum amenity space requirement to provide 4m<sup>2</sup> of amenity space per dwelling unit (480m<sup>2</sup> required, whereas 796m<sup>2</sup> provided).</p> <p>The applicant submitted a Sustainability Statement as part of the ZBA application. Staff has reviewed and is supportive of this Statement, noting that, "several sustainable measures have been proposed or are being considered for the development." Through the future site plan stage, sustainability measures will be further refined.</p> <p>Staff notes that the proposed development will be managed as a single building, rather than as 5 individual properties (as currently exist). Through a development agreement that is registered on the title of the property through the future site plan application, lifetime maintenance obligations will be placed on the owners of the new building. This may simplify maintenance of the development.</p>
<p><u>Transportation Concerns:</u></p> <ul style="list-style-type: none"> <li>- Road systems are already overwhelmed;</li> <li>- Difficulty completing turning movements;</li> <li>- Concerns with total number of bicycle parking provided;</li> <li>- The potential addition of bike lanes along Victoria Street South;</li> <li>- Total number of onsite parking;</li> <li>- Total number of electric vehicle spaces;</li> <li>- Parking will overflow onto streets within the nearby low rise residential area;</li> </ul>	<p>A Transportation Impact Study (TIS) was submitted by the applicant in support of the ZBA application. The TIS recommends that the Region and City "monitor the future traffic volumes along the Victoria Street South and optimize the signal timings accordingly. The need for signal timing improvements at the study area intersections are noted to occur with or without the development of the subject site". The TIS states the proposed development is estimated to generate 33 AM peak hour vehicle trips (i.e., one vehicle every 1m, 49s) and 39 PM peak hour vehicle trips (i.e., one vehicle every 1m, 32s).</p>



- Pedestrian safety.

The City's Transportation Services staff has reviewed the TIS and advises that, "Any of the vehicle turning movements...for existing, background or total traffic would occur with or without this development. Transportation Services are of the opinion that this development will not negatively impact the surrounding road network. Based on the parking demand analysis, the proposed parking supply of 53 spaces is adequate for this development..."

It should be noted that Victoria Street South is under the jurisdiction of the Region of Waterloo. In this regard, Region of Waterloo Corridor Planning staff has reviewed the TIS and advises that it is satisfied with the study, noting that the "TIS demonstrates feasibility on Regional roads" and "has accounted appropriately other nearby developments". The Region of Waterloo advises that the reconstruction of Victoria Street is planned for 2029-2033. While the Region does not currently have any preliminary design drawings for the reconstruction, it is assumed, based on Regional Official Plan direction, that upgrades will include multi-modal infrastructure.

It should be noted that the Province's recent changes to the Planning Act have eliminated minimum parking requirements within Protected Major Transit Station Areas, such as the Central Station PMTSA (which the subject property is within). While no parking is required, the applicant has voluntarily proposed to provide 53 fully underground parking spaces. The proposal includes provision of 120 Class A (i.e., within an enclosed, secure area with controlled access) bicycle parking stalls, which equates to 1 stall per unit, in addition to 8 Class B stalls (i.e., short-term). However, By-law 2019-051 regulates parking facilities where they are voluntarily provided. In this regard, the City will require that 10% of the 53 spaces provided are allocated to visitor parking (6 spaces), 4% are barrier-free parking spaces (3 spaces), and 20% are designed to permit the future installation of EV supply equipment (10 spaces).

	<p>It should also be noted that sidewalks are currently provided along all three street frontages.</p> <p>In response to the comment provided at the Neighbourhood Meeting, “has the city ever considered parking permits for Henry St. residents during construction and thereafter?”, Transportation staff advises that parking permits would be provided on a temporary basis to Henry Street residents only if Henry Street was being reconstructed; residents would be permitted to park on neighbouring streets.</p>
<p><u>Existing Residents</u></p> <ul style="list-style-type: none"> <li>- Rental replacement By-law;</li> <li>- Public engagement.</li> </ul>	<p>The proposed development is subject to the City’s new Rental Replacement By-law, thereby providing relief for residents of the 5 dwellings that will be demolished. See <i>Site Context</i> section of this report for more information.</p> <p>A circulation notice and neighbourhood meeting invitation postcard was circulated to occupants (renters, businesses, property owners, etc.) via Canada Post on August 16, 2024. Information about the applications and neighbourhood meeting was posted on the City’s Planning Applications webpage at the same time. Three notice signs with information about how to engage in the process were posted on the subject property – one on each street frontage. Two advertisements were placed in The Record, notifying the community about 1) the application itself (August 23, 2024), and 2) the Planning and Strategic Initiatives Committee meeting in which the application is being discussed (October 4, 2024).</p>
<p><u>Heritage Concerns:</u></p> <ul style="list-style-type: none"> <li>- Demolition - as part of the Victoria Park heritage district;</li> <li>- Heritage Assessment and accuracy;</li> <li>- Proximity to heritage homes.</li> </ul>	<p>The subject property, addressed as 169-183 Victoria St S, does not have any heritage status, being neither listed as a non-designated property of cultural heritage value or interest on the Municipal Heritage Register, designated under the Ontario Heritage Act, or identified on the Kitchener Inventory for Historic Buildings.</p> <p>The subject property comprises 5 low rise residential buildings, which are all proposed to be demolished to facilitate redevelopment with the proposed development concept.</p>

	<p>A Heritage Impact Assessment (HIA) was prepared by McCallum Sather, dated June 2024, in support of the ZBA. The HIA was reviewed by City Heritage Planning staff. No significant issues were identified.</p> <p>The subject property is directly adjacent to the Victoria Park Heritage Conservation District. The owners of the subject property also own 59 Park Street, which abuts the subject property and is within the District. 59 Park St is not subject to the requested ZBA and is not proposed to be demolished.</p>
<p><u>Development Specifics:</u></p> <ul style="list-style-type: none"> <li>- Development timeline;</li> <li>- Noise;</li> <li>- Impacts on surrounding structures (foundations).</li> </ul>	<p>Regarding development timing, the owner advises that this will depend on the outcome of the ZBA and future Site Plan Application. The owner's hope is to start building in mid-2025.</p> <p>Construction is only permitted to occur during construction hours as outlined in City by-laws.</p> <p>Construction impacts to existing buildings and foundations are a private matter between property owners (i.e., the City is not involved). If a private property owner is concerned about construction impacts, he/she may contact a private structural or geotechnical engineer to conduct a pre-condition survey of the property to document the condition of their building, prior to demolition / construction on the subject property.</p>
<p><u>Natural Environmental Concerns:</u></p> <ul style="list-style-type: none"> <li>- Existing trees and wildlife habitat concerns;</li> <li>- Pollution;</li> <li>- Shade (lack of sunlight from new development);</li> <li>- Lack of greenspace;</li> <li>- Tree preservation.</li> </ul>	<p>It should be noted that the subject property does <i>not</i> contain natural heritage features, as defined by the City's Official Plan.</p> <p>Urban Design staff has reviewed Arborist Report and Vegetation Management Plan, submitted in support of the application (note: also includes 59 Park Street). Of the 14 trees reviewed by the report, 9 are proposed to be removed either to allow construction, because of poor condition, or both (note that written acknowledgement for removal of one tree in poor condition, in shared ownership, will be required from the owners of 52 Henry Street).</p> <p>Wildlife species found within the property are common and abundant in the area and have, for the most part, adapted to human-altered or urban environments.</p>

	Also see Sustainability Statement comments under the Development & Housing Approvals Staff Response column within the <i>Built Form &amp; Character Concerns</i> section of this table.
<u>Reduction of Property Values</u>	Assessing the impacts to property values is not a planning consideration. Planning applications are reviewed based on the principles of 'good planning' in the public interest which includes policy direction, serviceability, and functionality of the proposal.

**Planning Conclusions:**

It is important to ensure that the intent of the SGA zone regulations, as approved by Council, are maintained and implemented consistently. Policies in the Official plan provide criteria that must be evaluated where relief is being sought.

There may be site specific reasons and criteria why minor amendments to the approved regulations may be appropriate. In this case, staff worked with the applicant to revise the development proposal to ensure that the intent of the regulations as approved by Council are maintained. Staff are satisfied with the site-specific design as revised for this property.

Consideration of this site-specific application should not be considered as a precedent for other applications within strategic growth areas. All applications must be reviewed and considered for their own merit and general compliance with the regulations in the zoning bylaw and intent of the Official Plan.

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.

In considering the foregoing, Development and Housing Approvals staff supports the Zoning By-law Amendment Application to permit the subject property to be developed with an 8-storey residential development. The proposal will facilitate redevelopment of the lands with a “missing middle” housing, in a mid-rise built form, including the provision of rental units and affordable units. A mix of dwelling unit types is proposed, including 3 to 5 three-bedroom units. The proposal will be subject to the City’s Rental Replacement By-law as well as Inclusionary Zoning requirements. Staff is of the opinion that the subject application is consistent with policies of the Provincial Policy Statement (2024), the Regional Official Plan, and the City of Kitchener Official Plan. Moreover, staff is of the opinion that the proposal represents good planning and is in the public interest. In this regard, staff recommends that the Zoning By-law Amendment Application be approved, as shown in Attachment ‘A’ and Attachment ‘B’ and that the Urban Design Brief be endorsed to provide direction for the future site plan application (see Attachment ‘C’).

**STRATEGIC PLAN ALIGNMENT:**

This report supports the delivery of core services.

## **FINANCIAL IMPLICATIONS:**

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

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

## **COMMUNITY ENGAGEMENT:**

INFORM – This report has been posted to the City’s website with the agenda in advance of the Council / Committee meeting. Three notice signs were posted on the property and information regarding the application was posted to the City’s website. Following the initial circulation referenced below, an additional notice of the statutory public meeting was circulated to residents and property owners within 240 metres of the subject lands and those who responded to the preliminary circulation. Notice of the Statutory Public Meeting was posted in The Record on October 4, 2024 (a copy of the notice may be found in Attachment ‘D’).

CONSULT – The requested Zoning By-law Amendment was circulated to residents and property owners within 240 metres of the subject lands on August 16, 2024. In response to this circulation, staff received written responses from 14 residents, which are summarized within this staff report. DHA staff also responded to emails and phone calls from the community. DHA staff also met with the Chair of the Victoria Park Neighbourhood Association (VPNA) Development Committee to discuss the application.

## **PREVIOUS REPORTS/AUTHORITIES:**

- Planning Act, R.S.O. 1990, c. P.13
- Provincial Policy Statement, 2024
- Regional Official Plan, as amended by ROPA 6
- City of Kitchener Official Plan, 2014, including OPA Nos. 49 and 133
- City of Kitchener Zoning By-law 85-1
- City of Kitchener Zoning By-law 2019-051, as amended by the By-law 2024-065 (Council-Approved; Appealed)

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

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

## **ATTACHMENTS:**

Attachment ‘A’ – Proposed By-law & Map No.1 (Amendment under By-law 85-1)

Attachment ‘B’ – Proposed By-law & Map No.1 (Amendment under By-law 2019-051)

Attachment ‘C’ – Urban Design Brief

Attachment ‘D’ – Newspaper Notice

Attachment ‘E’ – Department and Agency Comments

Attachment ‘F’ – Community Comments