

Staff Report



Development Services Department

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REPORT TO: Planning and Strategic Initiatives Committee

DATE OF MEETING: October 28, 2024

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

PREPARED BY: Eric Schneider, Senior Planner 519-741-2200 ext. 7843

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: October 18, 2024

REPORT NO.: DSD-2024-467

SUBJECT: Zoning By-law Amendment Application ZBA24/022/K/ES
864-876 King Street West
King Pine Kitchener Inc.

RECOMMENDATION:

That Zoning By-law Amendment Application ZBA24/022/K/ES requesting to amend Zoning By-law 85-1, for King Pine Kitchener Inc. be approved in the form shown in the 'Proposed By-law', and 'Map No. 1', attached to Report DSD-2024-464 as Attachments 'A1' and 'A2'; and

That Zoning By-law Amendment Application ZBA24/022/K/ES requesting to amend Zoning By-law 2019-051, for King Pine Kitchener Inc. be approved in the form shown in the 'Proposed By-law', and 'Map No. 1', attached to Report DSD-2024-432 as Attachments 'B1' and 'B2'; and further

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.

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 864-876 King Street West. It is planning staff's recommendation that the Zoning By-law Amendment Application be approved.
- The proposed amendment supports the creation of 456 dwelling units on an underutilized site within a Protected Major Transit Station Area (PMTSA) that contains a two storey commercial building previously used as a CTV news studio.
- Community engagement included:

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

- 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 September 18, 2024;
- postcard advising of the statutory public meeting was circulated to all residents and property owners within 240 metres of the subject site, those who responded to the preliminary circulation; and those who attended the Neighbourhood Meeting;
- 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 8, 2024. The Applicant can appeal this application for non-decision after November 7, 2024.

EXECUTIVE SUMMARY:

The owner of the subject lands, addressed as 864-876 King Street West, is proposing to add a Special Regulation Provision in Zoning By-law 85-1 and add a Site Specific Provision in Zoning By-law 2019-051 to facilitate the development of the site with high density residential. Staff are recommending that the application be approved.

BACKGROUND:

The City of Kitchener has received an application for a Zoning By-law Amendment from King Pine Kitchener Inc. for a development concept that proposes a first phase of a multi-tower development, a 45 storey tower with 456 dwelling units.

The subject property is identified as a 'Major Transit Station Area' on the City's Urban Structure (Map 2 - City of Kitchener Official Plan). 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 Four Zone (SGA-4)' 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-4 zoning permissions include:

- Residential and Commercial uses.
- No maximum building height.
- 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 – Location Map: 864-876 King Street West

Site Context

The subject lands are addressed as 864-876 King Street West 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 that contained the CTV Kitchener Studios (864, 866, 868, 876 King Street West) and the associated transmission tower (872 King Street West). The consolidated parcels form a large irregular parcel of land having an area of 0.63 hectares (1.55 acres) with frontage along King Street West (Regional Road) and Pine Street (Local Road). The surrounding neighbourhood is developed with a range of commercial and institutional uses, including Grand River Hospital along with a mix of high, medium and low density residential dwellings.



Figure 2 – View of Subject Lands (Intersection of King Street West and Pine Street)



Figure 3 – View of Subject Lands (Pine Street)



Figure 4 – View of Subject Lands (Rear of site from Mackenzie-King Sports Field)

REPORT:

The applicant is proposing to develop the lands with a 45-storey multiple dwelling building, having 456 dwelling units. The proposed development represents “Phase 1” of a multi-phase build-out of the lands. ***The subject application is only evaluating Phase 1 of the lands. Future phases may need (a) subsequent Zoning By-law Amendment application(s) based on compliance/non-compliance with applicable zoning regulations.***

The ‘Growing Together’ Zoning By-law Amendment to Zoning By-law 2019-051 is currently under appeal. As a result, zoning the subject lands are currently “dual testing” in which both Zoning By-law 85-1 and Zoning By-law 2019-051 are in effect, and the most stringent regulation in each Zoning By-law would be applied. It is therefore necessary at this time to amend both Zoning By-laws in effect as part of this application.

The “High Intensity Mixed Use Corridor Zone (MU-3)” in Zoning By-law 85-1 permits multiple dwelling buildings with no maximum building height, and a maximum Floor Space Ratio of 4.0.

The “High Rise Growth Zone (SGA-4)” in Zoning By-law 2019-051 permits multiple dwelling buildings with no maximum building height or Floor Space Ratio (FSR).

The applicant is requesting a Zoning By-law Amendment to both Zoning By-laws to establish specific development standards for the proposed development.

Revisions made to application through review:

Staff note that the application was submitted as a 44 storey tower by the applicant. Upon review by staff, it was determined that the mezzanine parking level between the ground floor level and second level of parking structure counts as a storey, and therefore the proposal shall be considered a 45 storey tower.

Based on comments received from Staff during the review process, the applicant has provided a revised concept that better achieves the intent of the built form regulations in the 'Growing Together' zoning and creates a more orderly form of development that allows future development of adjacent lands.

The placement of the tower has been revised to rotate orientation of the tower by 90 degrees. In addition, the applicant has increased the physical separation distances of the tower from the eastern and southern (side) lot lines and the northern (rear lot line), to achieve a greater compliance to the required physical separation distances required in the SGA-4 zone.

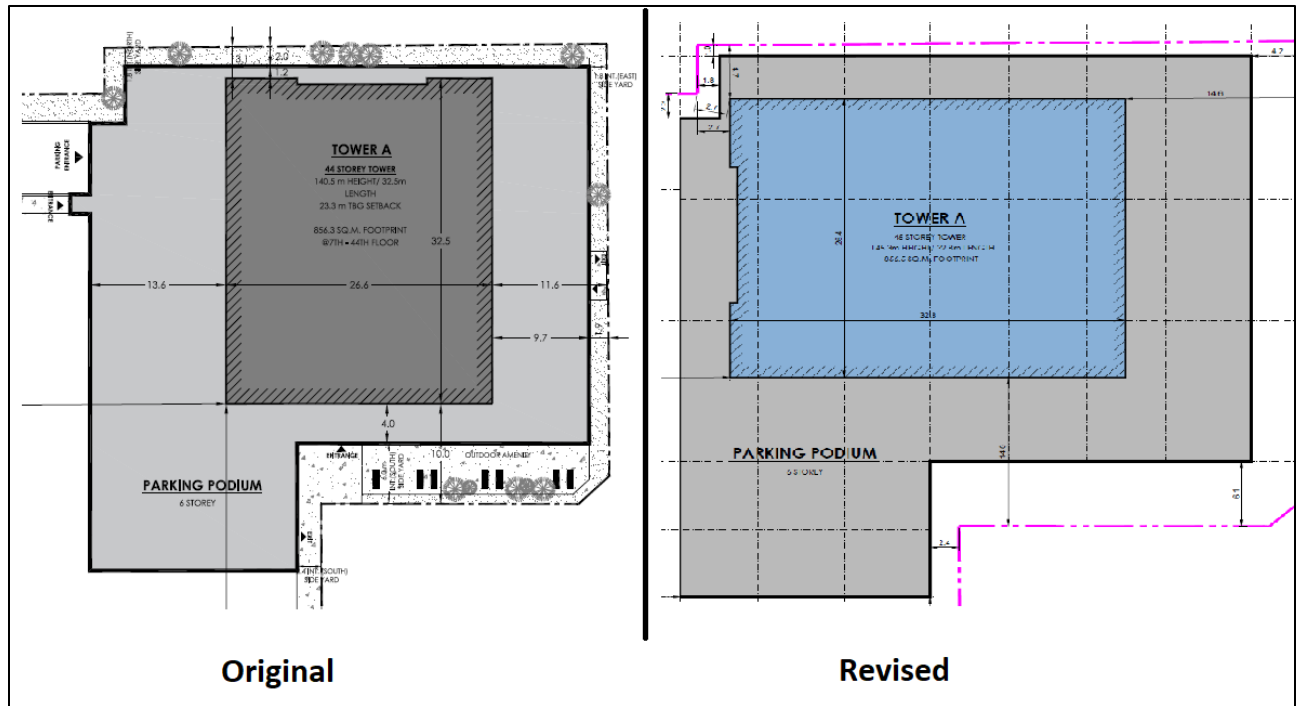


Figure 5 – Original and Revised Tower Placement

Highlights of Changes to Tower Placement

	Minimum Physical Separation	Original	Revised
North	15 m	3.1 m	4.7 m
East	15 m	11.6 m	14.6 m
South	15 m	10 m	14.0 m

Inclusionary Zoning

Inclusionary Zoning (IZ) is a land-use planning tool, authorized through the Planning Act, that can be used by municipalities to require affordable housing units in new residential

and mixed-use developments located in Protected Major Transit Station Areas (PMTSAs). The tool has been used successfully in a number of different jurisdictions to create a modest but meaningful supply of affordable housing.

On March 18, 2024, Council passed By-law 2024-068 to amend Zoning By-law 2019-051 and By-law No. 2024-069 to amend Zoning By-law 85-1, and adopted Amendment 48 to the Official Plan. The amending by-laws require affordable housing units in new developments to be included as part of market housing development within PMTSAs.

The subject property is located within the Grand River Hospital PMTSA, an established Market Area. Inclusionary Zoning set-aside rates (percentage of gross leasable residential floor area to be provided as affordable units) are determined at the date of building permit issuance for above grade permits issued after January 1, 2025.

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 Planning 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 Planning Statement, 2024 and to ensure Provincial policy is adhered to.

Provincial Planning 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 came into force on October 20, 2024.

The PPS 2024 provides municipalities with the tools and flexibility they need to build more homes. Some examples of what it enables municipalities to do are; plan for and support development and increase the housing supply across the province; and align development with infrastructure to build a strong and competitive economy that is investment-ready.

Sections 2.1.6 and 2.3.1.3 of the PPS 2024 promotes 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. Policies further promote, improving accessibility and social equity, and efficiently using land, resources, and existing infrastructure.

Planning staff is of the opinion that this proposal is in conformity with the PPS.

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 Grand River Hospital Station MTSA in the ROP. The minimum density target within the Grand River Hospital 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 Grand River Hospital Station MTSA.

The Region of Waterloo has indicated they have no objections to the proposed application (Attachment 'E'), provided a requested holding provision for a record of site condition is applied. 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 456 residential units on the subject lands in a high density form that makes efficient use of existing infrastructure.

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 rapid transit while being context sensitive to surrounding lands and provides excellent access to existing off-road pedestrian and future cycling facilities.

The proposed development is located in a prime location for high intensity development. The subject lands are in close proximity to the Grand River Hospital 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.

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 ION Grand River Hospital Station Stop. The building has excellent access to cycling networks, including future on and off-street cycling facilities and is located in close proximity to the Iron Horse Trail and Spur Line 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.

Sustainable Development

Section 7.C.4.1 of the City's Official Plan ensures developments will 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. The applicant has provided a Sustainability Statement that details the sustainability considerations. Highlights include:

- Compact Development and Built Form
- Low Impact Development Principles
- Low Flush Toilets and Low-Flow Shower Heads
- Roof Materials Cool Coloured to reduce effects of Heat Island Effect
- Heat Pump Chillers

Proposed Zoning By-law Amendment

The subject lands are currently zoned both in Zoning By-law 85-1 and Zoning By-law 2019-051 (currently under appeal on subject lands). Changes to both By-laws are necessary as part of this Zoning By-law Amendment and are described separately below.

Zoning By-law 85-1:

The subject lands are currently zoned 'High Intensity Mixed Use Corridor (MU-3)' in Zoning By-law 85-1.

The applicant has requested to add a Special Regulation Provision (817R) in Zoning By-law 85-1 to establish site specific development standards:

1. Maximum Front Yard Setback (King Street West) of 31.4 metres rather than the required 10 metres.
2. Maximum Side Yard Abutting a Street Setback (Pine Street) of 38.2 metres rather than the required 10 metres.
3. Minimum Rear Yard Setback of 1 metre rather than the required 14 metres.
4. Maximum Floor Space Ratio of 7.3 rather than the required 4.0.

Staff offer the following comments with respect to the requested special regulation provision:

Maximum Yard Setback to Street Lines

Staff acknowledge that the proposed development represents the first phase of a multi-phase development. The non-compliance is due to the rear of the site developing first, and leaving a large area between the proposed development area the first phase and the street lines. Staff acknowledge that development of the second phase on the balance of the lands will locate building area closer to the street lines and address the street.

Minimum Rear Yard Setback

The intent of the requirement for a rear yard setback of 14 metres is to provide adequate building separation and outdoor amenity area. The rear yard is located on the North property line where the site abuts Mackenzie-King Field, a sports field used by Kitchener Collegiate Institute for active school activities. The Waterloo Region School Board intends to continue the use of the lands as a sports field, and staff acknowledge that the site will likely not be developed with buildings, addressing the intention for adequate building separation.

Regarding outdoor amenity space, the applicant is proposing both at grade amenity space at the front of the building, as well as outdoor amenity space on the 7th floor rooftop of the building base parking structure. Staff are satisfied that the proposed 1 metre setback for the building base parking structure is adequate.

Floor Space Ratio

The regulation for Floor Space Ratio maximum of 4.0 is designed to control the massing and building height of development on the lands. The maximum of 4.0 is based on a planning framework that included Bonusing, a planning tool to increase density based on community benefits such as providing dwelling units, public art, and heritage conservation. Bonusing is no longer permitted under the Provincial planning framework, so the maximum of 4.0 not conducive to high rise development, which the lands are zoned and designated for. Staff acknowledge that Council has approved the Growing Together zoning, which no longer uses Floor Space Ratio to regulate massing and height, and instead uses built form regulations that will be discussed further in the report.

Zoning By-law 2019-051:

The subject lands are zoned 'High Rise Growth Zone (SGA-4)' in Zoning By-law 2019-051 (currently under appeal).

The applicant has requested to add a Site Specific Provisions (415) in Zoning By-law 2019-051 to establish site specific development standards:

1. Minimum Yard Setback of 1 metre (North property line, right side), 1.8 metres (Northwest property line), 2.3 metres (North property line, left side) rather than the minimum of 3 metres.
2. Building Base height of 7 storeys rather than the maximum of 6 storeys.
3. Minimum Street Line Ground Floor Building Height of 3.2 metres rather than the minimum of 4.5 metres
4. For Storeys 7-12: Physical Separation of 1 metre (North property line, right side), 1.8 (Northwest property Line), 2.3 metres (North property line, left side), 4.2 metres (East

property line, North side), 2.4 metres (East property line, South side) rather than the minimum of 6 metres.

5. For Storey 7: Floor Plate Area of 2080m² rather than the maximum of 2000m².
6. For Storeys 13-18: Physical Separation of 4.7 metres (North property line, right side), 2.7 metres (Northwest property line), 2.7 metres (North property line, left side) rather than the minimum of 9 metres.
7. For Storeys 19-36: Physical Separation of 4.7 metres (North property line, right side), 2.7 metres (Northwest property line), 2.7 metres (North property line, left side) rather than the minimum of 12 metres.
8. For Storeys 37 and above: Physical Separation of 4.7 metres (North property line, right side), 2.7 metres (Northwest property line), 2.7 metres (North property line, left side) 14.6 metres (East property line, North side), 14 metres (South interior property line) rather than the minimum of 15 metres.

Items 9-12 are regulations for lands on Priority Streets. King Street West is identified as a Priority Street.

9. A Community use or Commercial Use occupies 0% of the street line ground floor rather than the minimum of 50%.
10. Above grade structured parking spaces are located on the street line ground floor and street line second floor, whereas they are not permitted.
11. Above grade structured parking spaces occupy 100% of the street line façade within the base of a building rather than the maximum of 50%.
12. Street line ground floor façade openings of 5% rather than the minimum of 40%.
13. Geothermal Wells are prohibited on site. A geothermal well is defined as a vertical well, borehole or pipe installation used for geothermal systems, ground-source heat pump systems, geo-exchange systems or earth energy systems for heating or cooling; including open-loop and closed-loop vertical borehole systems. A geothermal well does not include a horizontal system where construction or excavation occurs to depths less than five meters unless the protective geologic layers overlaying a vulnerable aquifer have been removed through construction or excavation.

Staff offer the following comments with respect to the requested site specific provision:

Yard Setback

The regulation for a yard setback of 3 metres is designed to provide a buffer from the street line, or internal lot lines that abut developed or future development lands. The North property line abuts Mackenzie-King Field, a sportsfield used by Kitchener Collegiate Institute for outdoor school activities. The school lands are proposed to remain in use as a sportsfield and are unlikely to be developed with buildings. Staff are of the opinion that the requested setback of 1 metre is adequate for the North property line.

Building Base Height

The regulation that requires a maximum of 6 storeys for a building base is intended to provide a human-scaled streetscape and articulate the building design. As the proposal is for the first phase of the development of the lands, the proposed base is located a significant distance from the street lines. The building base height in this area does not

impact the streetscape due to its distance from street lines. Staff acknowledge that the second floor of the building base is a half-floor mezzanine that allows the building lobby to be 2 storeys high, which contributes to a higher level of urban design for the building entrance and lobby.

Street Line Ground Floor Building Height

Requirements for a 4.5 metre street line ground floor building height is to address the street with pronounced ground floor that welcomes and is differentiated from storeys above to address the pedestrian realm. The ground floor of the proposed building is located over 30 metres from the street lines at Pine Street and King Street West, as it is an interior building in phase 1 of a multi-phase construction plan. Future proposals for buildings in phase 2 will be located closer to Pine Street and King Street West and will have the opportunity to address the street.

Floor Plate Area

Limits on building length and floor plate area are tied to different height ranges, to ensure the impacts of tall buildings are managed as they get taller. The requested floor plate area of 2080 m² is for the 7th floor only and is a result of the building base height being 7 storeys rather than the maximum of 6 storeys. Staff acknowledge that the Floor Plate Area of the tower portion complies with the Growing Together regulations, and the relief sought by the site specific provision is for the building base only.

Physical Separation

The requirements for physical separation are intended to control the massing and building placement of development and redevelopment, to ensure that there are no adverse impacts to surrounding lands, and that the redevelopment potential of abutting lands is not frustrated or compromised by development of the subject lands.

Staff have worked considerably with the applicant to design a tower placement that achieves the objectives of the applicant for unit size, unit quantity, and constructability, while ensuring that the objectives of the regulations for physical separation are being met. This included rotating the tower, changing floor plate dimensions, and relocating the building base. The physical separation requirements for the tower portion facing the abutting SGA-4 lands both to the East property line and the South property line of the site are now met for all floors except 37-45, where a 0.4-1 metre reduction is requested for those floors only.

The most significant relief sought for physical separation are on the North property lines (irregular shaped lot). Staff acknowledge that the planned future use of the abutting lands to the North as a sportsfield for KCI secondary school reduces the need for a physical separation to the North property line, as the abutting lands are not likely to be redeveloped with buildings.

Staff have evaluated the site context of the subject lands, including the irregular shaped lot, the use and planned function of the abutting lands, and the use and planned function of lands in the surrounding neighbourhood and area. Staff prefer the revised concept as compared to the original concept, as the physical separation on the easterly side yard is now largely met.

Physical separation is a fundamental regulation of the Strategic Growth Area (SGA) zones to regulate built form and to ensure that new development does not frustrate the redevelopment of an adjacent property. Adequate physical separation is also vital to ensure that residents living in the dwelling units within a building have access to light, views, and privacy from adjacent properties.

The SGA zones take a modern approach to regulating density and the form of buildings, rather than using floor-space-ratio (FSR) and maximum densities, built-form regulations such as height, maximum building length, maximum floor plate areas and minimum physical separation between buildings are used. As there are no FSR and maximum densities regulations in the SGA zones, any relief to the built form regulations related to density and height must be carefully considered.

The requested site specific provision for physical separation meets the objectives of the regulations given the site context, as redevelopment potential to abutting lands is not adversely frustrated by the relief sought.

Priority Street Regulations

The priority street regulations are intended to require a higher level of urban design for buildings and streetscapes along major streets within MTSAs. The relief sought for these regulations is technical in nature, as they are a result of the applicant phasing the project and making the first phase at the rear of the site. Upon full redevelopment of the site, the applicant will locate the second phase building closer to King Street and the priority street regulations will be addressed at that time.

Prohibition of Geothermal Wells

The purpose of this regulation is to protect sensitive groundwater areas. The Region of Waterloo requires a prohibition on geothermal energy on the subject lands.

Proposed Zoning By-law Amendment Application Conclusions

Staff is of the opinion that the proposed Zoning By-law Amendment Application to add a new Special Regulation Provision and a Site Specific Provision represents good planning and is justified.

Department and Agency Comments:

Preliminary circulation of the Zoning By-law Amendment Application was undertaken in August 2024 to applicable City departments and other review authorities. Concerns with building design were identified by Staff and ultimately resolved with a revised concept plan showing an altered tower and building base placement. Copies of the comments are found in Attachment 'D' of this report.

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

- Planning Justification Report
Prepared by: MHBC Planning, June 2024
- Aeronautical Study

Prepared by: IDS North America Ltd, June 2024




- Urban Design Brief
Prepared by: MHBC Planning, June 2024
- Arborist Report
Prepared by: JK Consulting Arborists, June 21, 2024
- Architectural Site Plans
Prepared by: Reinders and Law, May 21, 2024
- Transportation Impact Study
Prepared by: Paradigm Transportation Solutions, June 2024
- Site Servicing Plan
Prepared by: Reinders and Law, February 2, 2024
- Sustainability Statement
Prepared by: MHBC Planning, June 28, 2024
- Preliminary Geotechnical Report
Prepared by: Chung & Vander Doelen Engineering Ltd., February 29, 2024
- Pedestrian Wind Assessment
Prepared by: The Boundary Layer Wind Tunnel Laboratory, June 20, 2024
- Sustainability Statement
Prepared by: MHBC Planning, June 28, 2024
- Notice of Source Protection Plan Compliance
Prepared by: MHBC Planning, June 27, 2024
- Site Grading Plan
Prepared by: Reinders and Law, February 2, 2024
- Functional Servicing and Stormwater Management Report
Prepared by: Reinders and Law, May 23, 2024
- Truck Turning Plans
Prepared by: MHBC Planning, May 14, 2024
- Shadow Study
Prepared by: Reinders and Law, June 2024
- Floor Plans
Prepared by: Reinders and Law, May 15, 2024
- Fire Route Plan

Prepared by: MHBC Planning, May 14, 2024

- Erosion Control Plan
Prepared by: Reinders and Law, February 2, 2024
- Building Elevations, Sections, Renderings
Prepared by: Reinders and Law, May 21, 2024

Community Input & Staff Responses

WHAT WE HEARD

-  **229 addresses (occupants and property owners) were circulated and notified**
-  **11 people/households/businesses provided comments**
-  **A City-led Neighbourhood Meeting was held on September 18, 2024, and 16 users logged on**

Staff received written responses from 11 residents with respect to the proposed development. The comments received are included in Attachment 'E'. A Neighbourhood Meeting was held on September 18, 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. Movements from Pine Street to King Street West are right turn only, with a U-turn left turn signal at Mt. Hope Street. The findings of the Transportation Impact Study forecasts the intersection of Pine and Mary Street to operate with acceptable levels of service and within capacity with no specific problem movements.
Construction impacts will cause issues on surrounding residential streets	Should the application proceed to site plan, the City would require a "Construction Management Checklist" that that details possible road closures,

	routes for construction traffic, crane installations, parking on streets, notification of residents, etc.
Affordable Units should be provided, and the development should be subject to Inclusionary Zoning	The subjects are located within a PMTSA (Protected Major Transit Station Areas), and the City's Inclusionary Zoning regulations will apply starting in 2025.
There should be space for delivery drivers so that they do not use the local residential streets to complete deliveries.	The applicant has provided an on-site loading area adjacent to the drive aisle that is intended for deliveries and drop offs.
There is a lack of green space in the neighbourhood and this will bring more people to this area that needs more park space	The applicant will be required to provide Cash-in-Lieu of parkland as part of the Parkland Dedication requirements for new development. This can contribute to acquisition of new park space and expansion of park infrastructure.
Building height is too tall for this area	The Council approved 'Growing Together' by-law has zoned the subject lands SGA-4, which does not contain a cap on building height. The lands are zoned and designated for high rise development.
Road conditions of local roads are poor	Herbert Street is proposed to be fully reconstructed by the City of Kitchener in Spring 2025. Roger Street is proposed to be reconstructed by the City of Waterloo in 2028.

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, staff are supportive of the Zoning By-law Amendment Application. Staff is of the opinion that the subject application is consistent with policies of

the Provincial Planning Statement (2024), conforms to Growth Plan for the Greater Golden Horseshoe, the Regional Official Plan, and the City of Kitchener Official Plan and represents good planning. Staff recommends that the application be approved.

STRATEGIC PLAN ALIGNMENT:

The recommendation of this report supports the achievement of the City's strategic vision through the delivery of core service.

FINANCIAL IMPLICATIONS:

There are no financial implications associated with this recommendation.

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 August of 2024. Following the initial circulation referenced below, an additional postcard advising of the statutory public meeting was circulated to all Kitchener 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 October 4, 2024 (a copy of the Notice may be found in Attachment 'C').

CONSULT – The proposed Zoning By-law Amendment were circulated to Kitchener 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 11 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 Planning Statement, 2024*
- *Regional Official Plan*
- *City of Kitchener Official Plan, 2014*
- *City of Kitchener Zoning By-law 85-1*
- *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 A1 – By-law to amend Zoning By-law 85-1

Attachment A2 – Map No. 1

Attachment B1 – By-law to amend Zoning By-law 2019-051
Attachment B2 – Map No. 2
Attachment C – Newspaper Notice
Attachment D – Department and Agency Comments
Attachment E – Public Comments
Attachment F – Revised Concept Plan