

# Staff Report



Development Services Department

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**REPORT TO:** Committee of the Whole

**DATE OF MEETING:** October 21, 2024

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

**PREPARED BY:** Garrett Stevenson, Director of Development and Housing Approvals, 519-741-2200 x 7070

**WARD(S) INVOLVED:** Ward 9

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

**REPORT NO.:** DSD-2024-433

**SUBJECT:** Follow Up to DSD-2024-371  
Zoning By-law Amendment Application ZBA24/017/M/CD  
Address: 328-330 Mill Street  
Owner: 1658194 Ontario L

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## RECOMMENDATION:

That Zoning By-law Amendment Application ZBA24/017/M/CD requesting to amend Zoning By-law 2019-051, for 100918377 Ontario Inc. be approved in the form shown in the Proposed 'Proposed By-law' and 'Map No. 1' attached to Report DSD-2024-433 as Attachments 'A1' and 'A2', and,

That pursuant to Section 34(17) of the Planning Act, R.S.O. 1990, c. P. 13, as amended, further notice is not required to be given in respect to Zoning By-law Amendment ZBA24/017/M/CD, 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 in relation to the lands specified above.

## REPORT HIGHLIGHTS:

- This is a follow up and supplementary report to Zoning By-law Amendment Application ZBA24/017/M/CD DSD-2024-371. This report must be read in conjunction with DSD-2024-371 which contains the full planning analysis.
- The purpose of this report is to outline staff's evaluation of the revised development concept and provide an updated and revised planning recommendation regarding

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the Zoning By-law Amendment Application for the property located at 328-330 Mill Street.

- Staff had originally recommended refusal of the application and the decision was deferred to September 30, 2024, meeting of Council, and subsequently again to the October 21, 2024, Council meeting. The Applicant has now revised their design and amendment request.
- It is staff's recommendation that the Zoning By-law Amendment Application be approved, as amended.
- This report supports the delivery of core services.
- This application was deemed complete on June 24, 2024. After September 24, 2024, the Applicant could appeal this application for non-decision.

## **BACKGROUND:**

On September 16, 2024, Council deferred the application at the request of the applicant to allow additional time for a revised proposal to be submitted and reviewed by staff. This matter was deferred again on September 30, 2024 in agreement with the Applicant.

The Applicant and staff have been working together for the past several weeks and a revised development proposal has been provided that seeks site-specific relief to Strategic Growth Zone Three Zone (SGA-3) for the proposed development at 328-application 330 Mill Street.

A copy of the updated planning justification, revised site plan concept and revised architectural plans, submitted by the Applicant, are attached as Appendices to this report.

This report is scoped to a review of the revised development concept and should be read in conjunction with the original staff report - [Zoning By-law Amendment Application ZBA24/017/M/CD DSD-2024-371](#), which includes a comprehensive planning analysis.

The original staff report (DSD-2024-371) was prepared while The Provincial Planning Statement (PPS) 2020 and the A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 were in effect.

As of October 20, 2024, the Provincial Planning Statement (PPS), 2024 will be in effect. This plan 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 comes into effect on October 20, 2024, the day before this matter is scheduled to be considered by Council.

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.

Staff are now in support of the revised amendment to Zoning By-law 2019-051. This application proposes to add with Site Specific Provision (412) and Holding Provision (96H) which propose site specific regulations to the Strategic Growth Area Three Zone (SGA-3).

## **REPORT:**

Site Specific regulations are now requested to three main sections of the Strategic Growth Area Three Zone (SGA-3), being physical separation, front yard setback, and setbacks. Each section is discussed below.

### Physical Separation

The physical separation for the westerly side yard is now met for all floors except for storeys 19 to 28, where a 2 metre reduction is requested for those floors only. To achieve this outcome, the entire building was repositioned on the site closer to the easterly side yard. The easterly side yard is irregular and features a pinch point. Site specific regulations and reductions for physical separation and setbacks are recommended for portions of the proposed building. Staff prefer the revised concept, as compared to the original concept, as the physical separation on the westerly 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.

These regulations work in combination to protect the privacy of new residents, ensure access to light for all units, and provide “breathing space” between buildings much like yard setbacks do for single detached houses. It also limits shadow, wind and other impacts on existing and future nearby residents. Without these regulations, buildings can create significant effects on the surrounding environment and can impact the future development potential of nearby properties. This includes limiting how much total housing can be built if one development frustrates or neutralizes development on neighbouring sites.

Physical separation ensures there is adequate space between taller buildings, to allow for access to sunlight as well as privacy and a high quality of life for all residents, both within new developments and in existing surrounding areas.

In this case, lands to the east have a more limited redevelopment potential, being a smaller parcel and subject to the flooding hazard overlay. Smaller scale redevelopment may occur on lands to the east if lots are consolidated and flooding hazards are mediated or addressed through the redevelopment of the lands. Given the challenges with redeveloping the land to the east and the irregular shape of the subject lands, Staff are supportive of reducing the easterly physical separation and setbacks at the pinch point. This request is a reasonable site-specific consideration that can be supported by staff, especially given the revisions to increase the westerly physical separation and setbacks.

Lands to the west and north of the subject lands are also zoned as SGA-3 and are also planned for redevelopment over time with high density residential and mixed-use development. Ensuring the physical separation is met to the westerly side yard is important to ensure these sites will also have an opportunity to redevelop and are not encumbered with the development of the subject lands.

### Front Yard Setback

As a result of moving the building further east, due to the irregular shape of the lot, portions of the base (podium) are located closer than 3 metres to the street line abutting Mill Street. The front yard setback requirement for these lands is 3 metres for the lowest 6 storeys (base), and then 6.0 metres for storeys 7 to 28. The revised development concept provides a 6 metre front yard setback for the ground floor with upper storeys cantilevered above. Storeys 2 and 3 are located 1 metre from Mill Street. The exterior wall of the building base is not parallel with the street line along Mill Street. As a result, only a portion of storeys 4 to 6 are within 1.0 metre of the street line. Similarly, only a small corner of storeys 7 to 18 are within 2.5 metres of the street line. The building complies with the front yard regulations for storeys 18 and above.

The ground floor setback of 6 metres provided with the cantilever design of the podium, combined with the 3 metres westerly side yard, provides adequate space to ensure the pedestrian sidewalk on Mill Street is prioritized. Landscaping can be provided, including the potential for some larger streets at the southwest corner along Mill Street and low level landscaping along Mill Street. Architectural elements of the podium will be important to ensure that vehicle access points are not the dominant feature along the pedestrian realm. Detailed building design will occur at the site plan stage.

### Setbacks for Parking Podium

Reduced yard setbacks for the four storey parking podium are also requested as the minimum yard setback is 3 metres to ensure that adequate landscaping can be provided around all exterior side yards and rear yard. Due to the irregular shape of this property, a 1.0 metre setback is requested for only the corners of the building at the pinch points and the actual yards surrounding the structured parking are adequate to provide landscaping to buffer to adjacent properties.

## 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.

Staff are now recommending that the Zoning By-law Amendment Application be approved as amended, and as attached to this report. Staff are now satisfied with the justification provided for the requested reductions in these regulations and the revised proposal. Much of the relief originally requested, has been revised, reduced, or rescinded.

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 Attachments 'A1' and 'A2'.

### **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. One large notice sign was posted on the property and information regarding the application was posted to the City's website in June of 2024. Following the initial circulation referenced below, an additional postcard advising of the statutory public meeting was circulated to all residents and property owners within 240

metres of the subject lands, and those responding to the preliminary circulation. Notice of the Statutory Public Meeting was also posted in The Record on August 23, 2024.

CONSULT – The proposed Zoning By-law Amendment Application was circulated to residents and property owners within 240 metres of the subject lands on June 24, 2024. In response to this circulation, staff received written responses from 4 members of the public, which were summarized as part of staff report DSD-2024-371.

**PREVIOUS REPORTS/AUTHORITIES:**

- Planning Act, R.S.O. 1990, c. P.13
- Provincial Policy Statement, 2024
- Regional Official Plan
- City of Kitchener Official Plan, 2014
- City of Kitchener Zoning By-law 2019-051
- [Growing Together – Protected Major Transit Station Area Land Use and Zoning Framework DSD-2024-005](#)
- [Supplemental Report to DSD-2024-005: Growing Together – Protected Major Transit Station Area Land Use and Zoning Framework DSD-2024-128](#)
- [Zoning By-law Amendment Application ZBA24/017/M/CD DSD-204-371](#)

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

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

**ATTACHMENTS:**

Attachment A1 - Proposed By-law  
Attachment A2 - Map No. 1  
Attachment B - Planning Justification  
Attachment C - Preliminary Site Plan  
Attachment D - Architectural Plans