

# Staff Report



Development Services Department

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**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** February 18, 2025

**SUBMITTED BY:** Tina Malone-Wright, Manager, Development Approvals  
519-783-8913

**PREPARED BY:** Arwa Alzoor, Planner, 519-783-8903

**WARD(S) INVOLVED:** Ward 5

**DATE OF REPORT:** January 24, 2025

**REPORT NO.:** DSD-2025-043

**SUBJECT:** Consent Application B2025-002 - 685 Fischer Hallman Road

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## RECOMMENDATION:

That Consent Application B2025-002 for 685 Fischer Hallman Road to facilitate a Lease Agreement in excess of 21 years in favour of Wendy's Restaurant, for an existing restaurant with a drive-through, BE APPROVED, subject to the following conditions:

1. That the Owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
2. That the Owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.
3. That the owner provides a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full size paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
4. That the Owner verify, in writing, whether the Lease Agreement, is affected by any required or existing easements and/or restricted covenants, to confirm the necessary arrangements for servicing, shared parking and access are in place.
5. That the Owner verify, in writing, that the subject property has been developed in accordance with the Approved Site Plan Agreement, and if necessary, the Site Plan Agreement is to be amended to include any required revisions and/or

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

updates.

6. **That the Owner verify, in writing, that the Lease Agreement complies with and fulfils all pertinent provisions of the Ontario Planning Act.**
7. **That the Owner/Developer submit a copy of the signed mutual access agreement for both severed and retained parcels to the satisfaction of the Regional Municipality of Waterloo.**

#### **REPORT HIGHLIGHTS:**

- The purpose of this report is to review an application requesting consent to enter into a long-term lease exceeding 21 years for a restaurant and drive-through located on the lands addressed as 685 Fischer Hallman Road. The building is existing, and no new development is proposed.
- The key finding of this report is that the long-term lease be approved as it will not impact or restrict the existing and ultimate development of the subject lands
- There are no financial implications.
- Community engagement included a notice sign being placed on the property advising that a Committee of Adjustment application has been received, notice of the application was mailed to all property owners within 30 metres of the subject property and this report was posted to the City's website with the agenda in advance of the Committee of Adjustment meeting.
- This report supports the delivery of core services.

#### **BACKGROUND:**

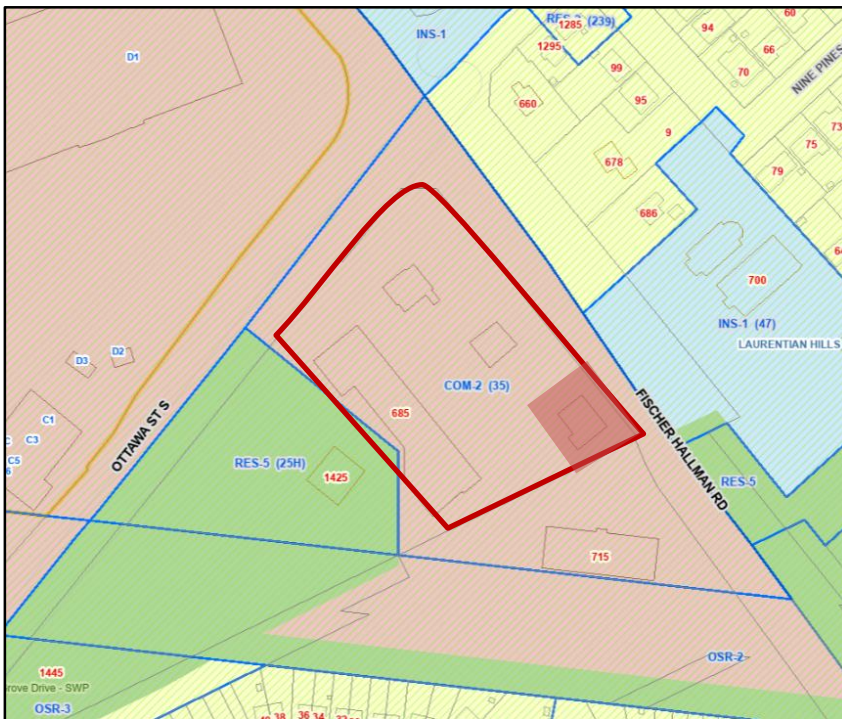
The subject property is located within a commercial plaza at the southwest corner of Fisher Hallman Road and Ottawa Street South.

The subject property is identified as a 'City Node' on Map 2 – Urban Structure and is designated 'Commercial' on Map 3 – Land Use in the City's 2014 Official Plan.

The property is zoned 'Commercial Two Zone (COM-2) with Site-Specific Provision (35)' in Zoning By-law 2019-051.



**Figure 1: Location Map**



**Figure 2: Zoning Map**

The purpose of the application is to request a lease agreement apply to the area shown in the red-highlighted area lease sketch, shown in Figure 3 below, submitted with the application. This area is 706.4 square metres and includes Building 'B' and the drive-through.

The owner of a commercial plaza located at 685 Fischer-Hallman Road is requesting consent, as per Section 50 (3) of the Ontario Planning Act, to permit the execution of a long-term lease (agreement) with Wendy's Restaurant for a period exceeding 21 years in duration. The building is existing, and no new Gross Floor Area (GFA) is proposed.

Site Plan Application SP01/06/FGR to permit the development of the commercial plaza, having 4 buildings and 209 parking spaces, was approved, and a Section 41 Agreement was registered on July 11, 2002. The site has been fully developed and, according to City records, there are no outstanding site matters to address. The site was planned and developed comprehensively as a plaza complex with all the buildings utilizing and sharing the parking areas, walkways, and two approved accesses for the site via Ottawa Street South and Fischer Hallman Road.

Application B2023-020 and B2023-034 are two previously approved long-term lease applications for the subject property for Buildings A and D, which were approved by the Committee of Adjustment.

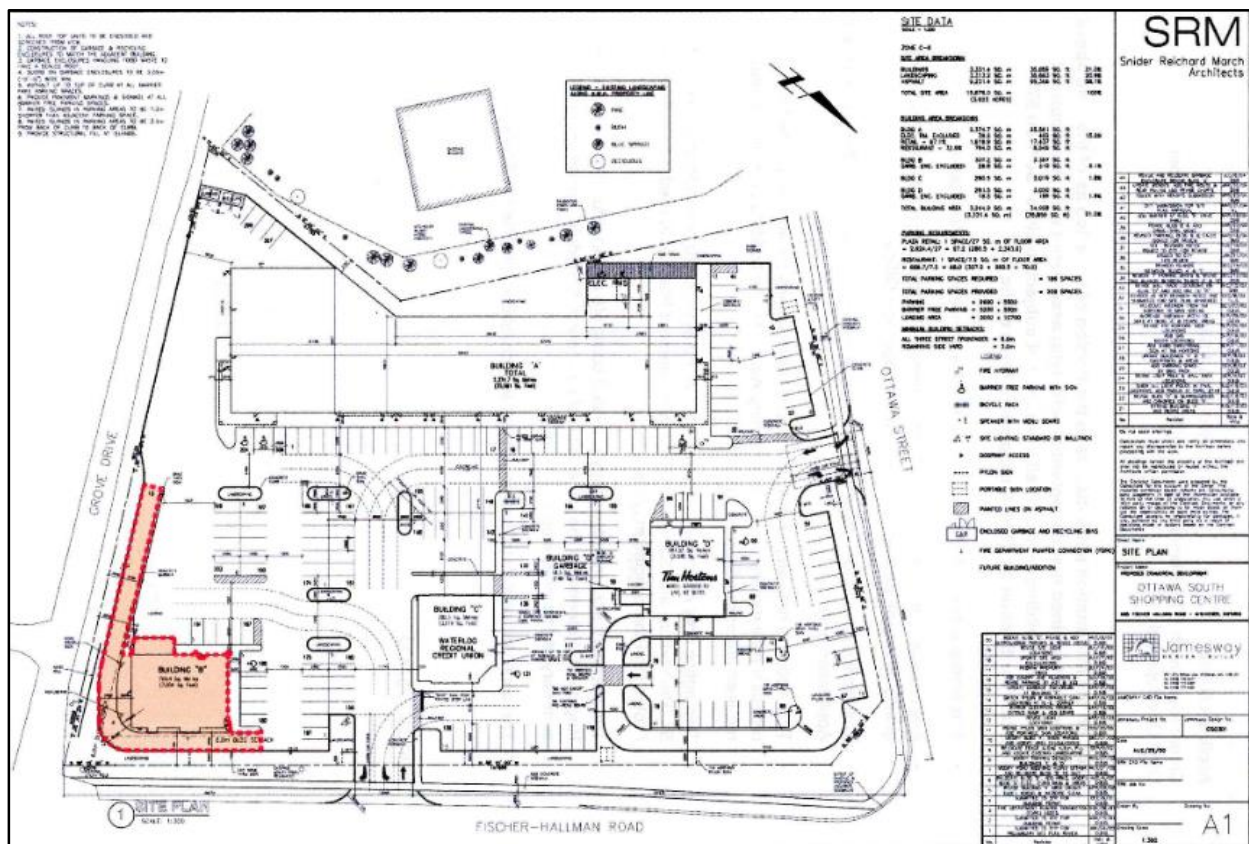


Figure 3: Site plan- Wendy's Restaurant and Drive-through



Figure 4: Street view of Wendy's Restaurant on the subject property

Planning staff visited the site on January 31<sup>st</sup>, 2025



Figure 5: Picture of the restaurant Drive-through



**Figure 6: Picture from the side of the drive-through and the abutting lot access**

## **REPORT:**

### **Planning Comments:**

In considering all the relevant Provincial legislation, Regional and City policies and regulations, Planning staff offer the following comments:

#### Provincial Planning Statement (PPS 2024)

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

As the proposal is to facilitate a long-term lease of existing Building 'B' for a period greater than 21 years, no lots are being created or lot lines being adjusted, and no physical changes to the existing development are proposed, it is Planning staff's opinion that no sections of the PPS or Regional Official Plan are specifically relevant, and that the application would conform to these plans and policies.

##### City's Official Plan (2014)

With respect to the Official Plan, no new parcels will be created through this application. The consent will not frustrate the planned function or ability of the site to operate (with shared access and parking) or appear to impede the outcome of any future planning processes. The use of property is in conformity with the City's Urban Structure and land use designation. In considering that the intent of the proposal is to facilitate an administrative consent required

by the Planning Act and that no changes are proposed to the existing, permitted commercial development on the lands, it is Planning staff's opinion that the proposed consent does not adversely impact any policies of the Official Plan.

#### Zoning By-law 2019-051

With respect to the City's Zoning By-law the use of the subject lands for a commercial is a permitted use in the 'COM-2' Zone, and the site as developed comprehensively complies with the Zoning By-law with respect to setbacks and parking. The long-term lease would not negatively impact the remainder of the commercial plaza, and no minor variances are required as a result of the long-term lease.

#### **Planning Conclusions/Comments:**

The long-term lease will not impact or restrict the existing and ultimate development of the subject lands and is considered to be appropriate and in accordance with the policies of the Official Plan and the criteria set out in Section 51 (24) of the Planning Act.

#### **Environmental Planning Comments:**

No comments.

#### **Heritage Planning Comments:**

No concerns.

#### **Building Division Comments:**

The Building Division has no objections to the proposed consent.

#### **Engineering Division Comments:**

No comments.

#### **Parks/Operations Division Comments:**

No requirements.

#### **Transportation Planning Comments:**

Transportation Services have no concerns with this application.

#### **Region of Waterloo Comments:**

The lands are designated Built-Up Area within the Urban Area Boundary in the ROP, designated Commercial in the City's Official Plan, and zoned COM 2(35) "Neighbourhood Shopping Centre".

The subject lands are located at the corner of Ottawa St S (RR#4) and Fischer-Hallman Rd (RR#58), with access to both Regional Roads. To allow for the continued use of the existing access(es), a copy of a signed mutual access agreement for both the severed and retained parcels is required by the Region as a condition of approval.

#### **Grand River Conservation Authority Comments:**

Grand River Conservation Authority (GRCA) staff has reviewed the above-noted applications.

GRCA has no objection to the approval of the above applications. The subject properties do not contain any natural hazards such as watercourses, floodplains, shorelines, wetlands, or valley slopes. The properties are not subject to Ontario Regulation 41/24 and, therefore, a permission from GRCA is not required.

**STRATEGIC PLAN ALIGNMENT:**

This report supports the delivery of core services.

**FINANCIAL IMPLICATIONS:**

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

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

**COMMUNITY ENGAGEMENT:**

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

**PREVIOUS REPORTS/AUTHORITIES:**

- *Planning Act*
- *Provincial Planning Statement (PPS 2024)*
- *Regional Official Plan (ROP)*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*