

# Staff Report



Development Services Department

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

**DATE OF MEETING:** January 9, 2023

**SUBMITTED BY:** Garrett Stevenson, Interim Director, Planning, 519-741-2200 etc. 7070

**PREPARED BY:** Garrett Stevenson, Interim Director, Planning, 519-741-2200 etc. 7070

**WARD(S) INVOLVED:** Ward 1

**DATE OF REPORT:** December 22, 2022

**REPORT NO.:** DSD-2022-478

**SUBJECT:** Official Plan Amendment OP17/003/F/GS  
Zoning By-law Amendment ZC17/010/F/GS  
Henry Walser Funeral Home Ltd, Leeann Marie Walser, Henry James Walser and 2544770 Ontario Inc.

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## RECOMMENDATION:

That Official Plan Amendment Application OP17/003/F/GS for Henry Walser Funeral Home Ltd, Leeann Marie Walser, Henry James Walser and 2544770 Ontario Inc. requesting a Commercial land use designation and Specific Policy Area 58 to permit a crematorium/cremator as an accessory use to a funeral home, on the lands specified and illustrated on Schedule 'A' and on Schedule 'B', be adopted, in the form shown in the Official Plan Amendment attached to Report DSD-2022-478 as Appendix 'A', and accordingly forwarded to the Region of Waterloo for approval; and

That Zoning By-law Amendment Application ZC17/010/F/GS requesting to amend Zoning By-law 85-1, for Henry Walser Funeral Home Ltd, Leeann Marie Walser, Henry James Walser and 2544770 Ontario Inc. be approved in the form shown in the "Proposed By-law", and "Map No. 1", attached to Report DSD-2022-478 as Appendix 'B'; and

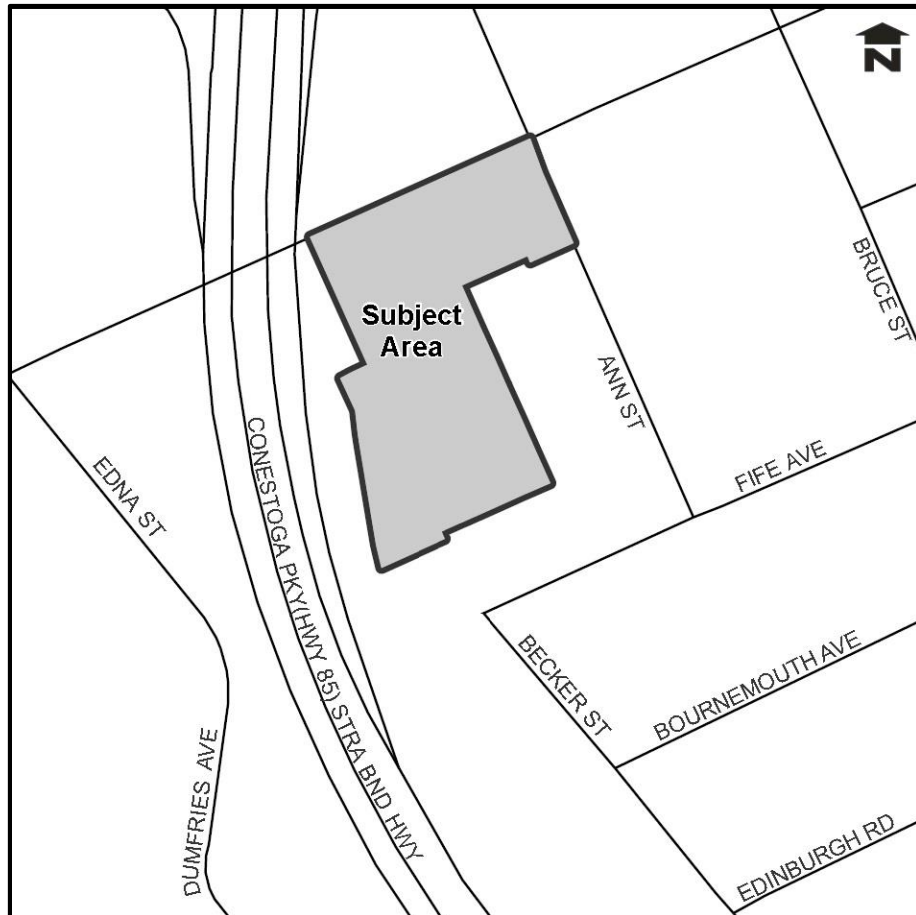
That Zoning By-law Amendment Application ZC17/010/F/GS requesting to amend Zoning By-law 2019-051, for Henry Walser Funeral Home Ltd, Leeann Marie Walser, Henry James Walser and 2544770 Ontario Inc. be approved in the form shown in the "Proposed By-law", and "Map No. 1", attached to Report DSD-2022-478 as Appendix 'C'; and

That the Proposed By-law to amend Zoning By-law 2019-051, attached to Report DSD-2022-478 as Appendix 'C', as amended shall have no force and effect against the subject lands until the date that all appeals relating to By-law 2022-040 (Comprehensive Review of the Zoning By-law (CRoZBy) Stage 2b – Applying New Residential Zones on Properties) in relation to the subject lands have been withdrawn or decided and any applicable appeal periods have expired; and

That in accordance with Planning Act Section 45 (1.3 & 1.4) that applications for minor variances shall be permitted for lands subject to Zoning By-law Amendment Application ZC17/010/F/GS, and

That Council give approval under Section 83(3) of the Funeral, Burial and Cremation Services Act, to establish a Crematorium proposed at 507 Frederick Street; and further,

That under Section 84(4) of the Funeral, Burial and Cremation Services Act, staff be directed to send a copy of the Council decision to the Provincial registrar and the owner, and that staff also be directed to publish notice of the decision in The Record newspaper.



**Location Map: Subject Lands – Inclusive of 507 Frederick Street, 40, 44, & 48 Becker Street, and a triangular shaped portion of land legally described as Plan 42, Pt Lots 27 to 30, RP 58R-15854 Pt 1**

#### **REPORT HIGHLIGHTS:**

- The purpose of this report is to provide a planning recommendation to approve Official Plan Amendment OP17/003/F/GS and Zoning By-law Amendment ZC17/010/F/GS for 507 Frederick Street, 40, 44, & 48 Becker Street, to permit a crematorium/cremator use as an accessory use to a funeral home.

- Community engagement included:
  - Circulation of a preliminary circulation letter to property owners within 120 metres of the subject lands;
  - Installation of notice signs on the property facing Frederick Street and Ann Street;
  - Two Neighbourhood Information Meetings;
  - An Owner-led Information Meeting,
  - Notice of the Statutory Public Meeting was published in the Waterloo Region Record on December 16, 2022 and directly mailed to all property owners within 120 metres of the subject lands and all community members that participated in the application process. A copy of the notice was also emailed to all community members that provided an email address through the application process.
- This report supports the delivery of core services.

## **EXECUTIVE SUMMARY:**

Planning staff is recommending approval of Official Plan Amendment OP17/003/F/GS and Zoning By-law Amendment ZC17/010/F/GS for 507 Frederick Street, 40, 44, and 48 Becker Street, and a triangular-shaped portion of land, legally described as Plan 42, Pt Lots 27 to 30, RP 58R-15854 Pt 1, to permit a crematorium/cremator as an accessory use to an existing funeral home. A funeral home is a permitted use for lands municipality addressed as 507 Frederick Street.

The Official Plan amendment application proposes to amend the land use designation of 40, 44, and 48 Becker Street, as well as the triangle-shaped portion of land), from 'Low Rise Residential' to 'Commercial'. Further, the application proposes to add Specific Policy Area 58 in the Official Plan to permit a crematorium/cremator use on all lands.

The Zoning By-law Amendment application proposes to amend both zoning by-laws so that all lands are zoned as 'COM-2' which would be the same zoning as the existing funeral home property. Additionally, Site Specific Provision (367) in Zoning By-law 2019-051. Site Specific Provision 367 in the Zoning By-law 2019-051 will permit a crematorium/cremator use on the lands 56 metres from a residential property, retain permissions for existing residential uses, prohibit new sensitive use, and provide site specific regulations for buildings and parking.

## **BACKGROUND:**

In August 2017, the City of Kitchener received an Official Plan Amendment (OPA) application and a Zoning By-law Amendment (ZBA) application. The OPA application, initially submitted, proposed to change the land use designation of all the above-noted properties to 'Commercial' and to change to the zoning to 'Commercial Residential Two Zone (CR-2) with Special Use Provision 268U'. An addition to the existing funeral home was proposed to the rear of the existing building. The closure and potential purchase of a portion of City-owned Becker Street was also proposed.

In September 2020, the proposal was revised to include a cremation tribute centre (crematorium/cremator use). The Owner had indicated that they would like to install a Facultative FT-III cremator that exceeds the requirements of the Ministry of the Environment, Conservation, and Parks (MECP) standards and advised that a potential purchase of Becker Street is no longer being considered.

Crematoriums are not permitted in the 'COM-2' zone, but they are permitted in the 'Heavy Industrial Employment Zone (EMP-3)' as a permitted use in Zoning By-law 2019-051. Further, Zoning By-law 2019-051 requires that crematoriums cannot be located within 250 metres of an existing or

planned residential use, a day care facility, elementary school, secondary school, or a post-secondary school. Zoning By-law 85-1 did not list a crematorium as a separate use and was previously permitted on any property that was zoned to permit a funeral home.

The Owner is proposing to build a crematorium in the new portion of the building (the proposed addition to the funeral home) on the west side of the building, adjacent to the expressway and as far as possible from the adjacent residential uses. The stack (the chimney) is proposed to be located 56 metres from the closest residential property (property line).

As part of the Comprehensive Review of the Zoning By-law (CRoZBy) project, the City updated the zoning of most properties in the City in phases, which included creating new zones, and making some changes to land use designations in the Official Plan.

As part of this work, the land use designation in the Official Plan for 507 Frederick Street (current funeral home and parking lot property) was amended from 'Mixed Use' to 'Commercial', and the lands were rezoned as 'COM-2' (General Commercial) in new Zoning By-law 2019-051. As part of the application of residential zones (the most recent phase of the CRoZBy project), the lands addressed as 40, 44, and 48 Becker Street were rezoned from 'Residential Five Zone (R-5)' to 'Low Rise Residential Four Zone (RES-4)'.

Kitchener City Council has previously approved zoning by-law amendments for 28 Becker Street (2007) and 34 Becker Street (2014) to rezone those lands from 'Residential Five Zone (R-5)' to 'Commercial-Residential Two Zone (CR-2) with Special Use Regulation 268U' to permit previous expansions of the funeral home and parking area.

## **REPORT:**

The subject lands are made up of five parcels, being the property municipally addressed as 507 Frederick Street (which now includes lands formally addressed as 28 and 34 Becker Street), 40, 44, and 48 Becker Street, as well as a triangular shaped portion of land legally described as Plan 42 Pt Lots 27 TO 30 RP 58R-15854 Pt 1 (located between Becker Street and the expressway).

A letter describing the initial applications was circulated to property owners within 120 metres of the subject lands on August 18, 2017. An in person Neighbourhood Information Meeting (NIM) was held on September 14, 2017.

A second circulation letter was mailed to all property owners within 120 metres of the subject lands as well as any person who participated in the application process on September 16, 2020. The Owner hosted a digital information meeting on October 27, 2021 and Planning staff held a second City-led virtual Neighbourhood Meeting on November 23, 2021.

## **Official Plan Amendment**

The property municipally addressed as 507 Frederick Street is designated as 'Commercial' and the four Becker Street properties (the triangle-shaped property and 40, 44, and 48 Becker Street) are designated as 'Low Rise Residential' in the City's Official Plan. A portion of lands form part of a Community Node in the City's Urban Structure.

The application proposes to amend the land use designation of 40, 44, and 48 Becker Street, as well as the triangle-shaped portion of land), from 'Low Rise Residential' to 'Commercial'. Further,

the application proposes to add Specific Policy Area 58 in the Official Plan to permit a crematorium/cremator use on all lands.

### Zoning By-law Amendment

The property addressed as 507 Frederick Street is zoned as 'COM-2 (General Commercial)', and a small portion previously addressed as 36 Becker Street is zoned as 'MIX-1', in Zoning By-law 2019-051.

40, 44, and 48 Becker Street are zoned as 'Residential Five Zone (R-5)' in Zoning By-law 85-1 and 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051.

The triangle-shaped piece of land is zoned as 'Residential Six Zone (R-6) with Special Use Provision 362U' in Zoning By-law 85-1 which permits a funeral home. These lands are zoned as 'Low Rise Residential Five Zone (RES-5) with Site Specific Provision 205' in Zoning By-law 2019-051. A funeral home is a permitted use.

The application proposed to amend both zoning by-laws so that all of the subject lands are zoned as 'COM-2' which would be the same zoning as the existing funeral home property. Additionally, Site Specific Provision (367) in Zoning By-law 2019-051 will;

- permit a crematorium/cremator as an accessory use to a funeral home on the lands at least 56 metres from a residential property,
- legalize the retention of existing residential dwellings,
- permit a building with no setback to Becker Street,
- allow a building within the required Driveway Visibility Triangles along Becker Street,
- permit a reduced on-site vehicle parking rate of 1 space per 24.5 square metres of floor area,
- allow for tandem parking for employees,
- define Frederick Street as the front lot line, and
- prohibit certain sensitive land uses until a Record of Site Condition is completed and a Ministry Acknowledgement Letter is provided.

### **Planning Analysis:**

Provincial, Regional, and City planning policy provide guidance that must be considered when evaluating changes in land use permissions as discussed below.

### **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 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, 2020, 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, 2020 and to ensure Provincial policy is adhered to.

### **Provincial Policy Statement (PPS)**

The PPS provides policy direction on matters of provincial interest related to land use planning and development. As a key part of Ontario's policy-led planning system, the Provincial Policy Statement sets the policy foundation for regulating the development and use of land.

Section 3(5) of the Planning Act requires that a decision of the council of a municipality shall be consistent with the policy statement that are in effect on the date of decision and shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be.

The PPS focuses growth and development within urban and rural settlement areas while supporting the viability of rural areas. Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns and avoiding significant or sensitive resources and areas which may pose a risk to public health and safety.

Efficient development patterns optimize the use of land, resources and public investment in infrastructure and public service facilities. These land use patterns promote a mix of housing, including affordable housing, employment, recreation, parks and open spaces, and transportation choices that increase the use of active transportation and transit before other modes of travel.

Policy 1.1.1 of the PPS states that, "Healthy, liveable and safe communities are sustained by:

- a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;
- c) avoiding development and land use patterns which may cause environmental or public health and safety concerns;
- e) promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs; and
- g) ensuring that necessary infrastructure and public service facilities are or will be available to meet current and projected needs.

The PPS notes that settlement areas are urban areas and rural settlement areas, and include cities, towns, villages and hamlets, and policy 1.1.3.1 states that settlement areas shall be the focus of

growth and development. Policy 1.1.3.2 states that land use patterns within settlement areas shall be based on densities and a mix of land uses which;

- a) efficiently use land and resources; and
- b) are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available and avoid the need for their unjustified and/or uneconomical expansion.

Policy 1.2.6.1 notes that major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.

Where avoidance is not possible in accordance with policy 1.2.6.1, planning authorities shall protect the long-term viability of existing or planned industrial, manufacturing or other uses that are vulnerable to encroachment by ensuring that the planning and development of proposed adjacent sensitive land uses are only permitted if the following are demonstrated in accordance with provincial guidelines, standards and procedures:

- a) there is an identified need for the proposed use;
- b) alternative locations for the proposed use have been evaluated and there are no reasonable alternative locations;
- c) adverse effects to the proposed sensitive land use are minimized and mitigated; and
- d) potential impacts to industrial, manufacturing or other uses are minimized and mitigated.

Funeral homes and crematoriums are necessary uses in a City to ensure that end of life accommodations for residents can be addressed. The Owner has indicated that the use of the cremation facility, located at Williamsburg Cemetery, does not suit their future needs, and a new facility is required. An on-site facility is desirable to reduce the number of trips required to complete an end of life service. An on-site facility will reduce vehicle trips across the City.

The Owner has completed several studies, including a Land Use Compatibility Study, Emission Summary and Dispersion Modelling (ESDM) Report, and an Acoustic Assessment Report, which were submitted to the City and the Region of Waterloo to demonstrate that their proposed crematorium will meet Provincial standards and that there will be no adverse impacts to surrounding lands.

As a Zoning By-law amendment application is required to add a crematorium use, the City and the Region of Waterloo were able to undertake the review of the crematorium proposal through the planning application public process. The City retained RWDI Consultants to peer review the reports submitted by Trinity Consultants on behalf of the Owner. As confirmed through the peer review process, the proposed mitigation will include:

- A requirement for the installation and maintenance of two 3 metre high noise walls adjacent to 133 Ann Street,
- Site specific zoning regulations limiting the site to one cremator that is 56 metres from a residential property,
- Enhanced landscape materials along the rear yards of Ann Street to provide additional screening,
- Periodic air quality testing of the cremation unit to ensure it operates optimally and in compliance with the MECP Environmental Compliance Approval (ECA), and
- A 1.2 metre high parapet atop the roof along the perimeter of the building to provide noise attenuation to rooftop mechanical equipment.

Planning staff is of the opinion that with the proposed mitigations listed above, the recommended zoning by-law amendment and Site Specific Provision (367) is consistent with the PPS.

### **A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan)**

The Growth Plan's strong emphasis on optimizing the use of the existing urban land supply represents an intensification first approach to development and city-building, one which focuses on making better use of existing infrastructure and public service facilities, and less on continuously expanding the urban area.

The Growth Plan directs Planning authorities in the Region of Waterloo to plan for a population of 923,000 people and 470,000 jobs by 2051. This would mean a population increase of approximately 299,070 in comparison to the Region's 2020 population of 623,930.

The Growth Plan notes that complete communities should be designed to meet people's needs for daily living throughout an entire lifetime by providing convenient access to an appropriate mix of jobs, local services, public service facilities, and a full range of housing to accommodate a range of incomes and household sizes. Complete communities support quality of life and human health by encouraging the use of active transportation and providing high quality public open space, adequate parkland, opportunities for recreation, and access to local and healthy food. Complete communities support climate change mitigation by increasing the modal share for transit and active transportation and by minimizing land consumption through building compact, mixed-use communities.

Building compact and complete communities, and protecting agricultural lands, water resources and natural areas will help reduce greenhouse gas emissions and ensure communities are more resilient to the impacts of a changing climate. The Province of Ontario has committed to reduce greenhouse gas emissions by 30 per cent below 2005 levels by 2030. Kitchener has committed to a 50% reduction of greenhouse gas emissions by 2030.

Policies 2.2.1.4 states that complete communities will:

- a) feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities;
- b) improve social equity and overall quality of life, including human health, for people of all ages, abilities, and incomes;
- c) provide a diverse range and mix of housing options, including additional residential units and affordable housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes;
- d) expand convenient access to:
  - i. a range of transportation options, including options for the safe, comfortable and convenient use of active transportation;
  - ii. public service facilities, co-located and integrated in community hubs;
  - iii. an appropriate supply of safe, publicly-accessible open spaces, parks, trails, and other recreational facilities; and
  - iv. healthy, local, and affordable food options, including through urban agriculture;
- e) provide for a more compact built form and a vibrant public realm, including public open spaces;
- f) mitigate and adapt to the impacts of a changing climate, improve resilience and reduce greenhouse gas emissions, and contribute to environmental sustainability
- g) integrate green infrastructure and appropriate low impact development.

Expanding the existing funeral home within the Community Node will allow for additional end of life services at the existing location. Funeral homes and crematoriums are required for end of life



services for the growing population of the City and Region. Expanding the existing building with a modest building addition will reduce the total amount of construction materials required for a new facility located elsewhere. The subject lands have good access to the transportation network, including public transit and the road network, including the expressway. Planning staff are of the opinion that the recommended zoning by-law amendment conforms to the Growth Plan.

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

On August 18, 2022, the Regional Municipality of Waterloo adopted Regional Official Plan (ROP) Amendment 6. The ROP Amendment No. 6 is now before the Minister of Municipal Affairs and Housing for a decision in accordance with Sections 17 and 26 of the Planning Act. As such, ROP Amendment No. 6 is now posted on the Province's Environmental Registry (ERO) website, and comments from the public will be accepted until January 4, 2023.

The subject lands are designated "Urban Area" and "Built-Up Area" in the Regional Official Plan (ROP). The Urban Area designation of the ROP has the physical infrastructure and community infrastructure to support major growth and social and public health services.

A key objective of ROP Amendment No. 6 is to accommodate forecasted growth by building 15-minute neighbourhoods. These are compact, well-connected places where people can meet their daily needs for goods, services, and employment within a 15-minute trip from home by walking, cycling, and rolling, and where other needs can be met by using direct, frequent, and convenient transit. F

Section 2.D.1 of the ROP states that in preparing or reviewing planning studies, or in reviewing development applications or site plans, the Region and/or Area Municipalities will ensure that development occurring within the Urban Area is planned and developed in a manner that:

- a) Supports the Planned Community Structure described in this Plan;
- b) Is serviced by a municipal drinking-water supply system and a municipal waste-water system;
- c) Contributes to the creation of complete communities with development patterns, densities and an appropriate mix of land uses that supports walking, cycling and the use of transit;
- d) Protects the natural environment, and surface water and groundwater resources;
- e) Conserves cultural heritage resources and supports the adaptive reuse of historic buildings;
- f) Respects the scale, physical character and context of established neighbourhoods in areas where reurbanization is planned to occur;
- g) Facilitates residents' access to locally grown and other healthy foods in neighbourhoods; and
- h) Promotes building designs and orientations that incorporate energy conservation features and the use of alternative and/or renewable energy systems.

Section 2.D.6.1 of ROP Amendment No. 6 states that in addition to the general development policies, the Region and the area municipalities will apply the following transit supportive development criteria in reviewing and evaluating development applications or site plans, within strategic growth areas and other intensification areas identified by the area municipality:

- (a) creates an interconnected, multimodal street pattern that prioritizes walking, cycling, and rolling, and taking transit over automobile trips, and supports vibrant mixed-use developments;
- (b) supports a more compact built form that locates the majority of transit supportive uses within a comfortable walking distance of a transit stop or Major Transit Station Area;

- (c) provides an appropriate mix of land uses, including a range of food destinations, local services and amenities to meet peoples' daily needs for living;
- (d) promotes medium and higher-density development as close as possible to the transit stop to support higher frequency transit service and optimize transit rider convenience;
- (e) supports a high quality public realm to enhance the identity of the area and create gathering points for social interaction, community events and other activities; and
- (f) provides access from various transportation modes to the transit facility, including consideration of pedestrian, bicycle parking, and where applicable, passenger transfer and commuter pick-up/drop off areas.

Section 2.G.10 of the Regional Official Plan requires the City of Kitchener to establish policies within their Official Plan to minimize the impact of Sensitive Land Uses and potential incompatible land uses from each other.

Section 2.I.1 of ROP Amendment No. 6 requires the Region and the area municipalities to ensure that major facilities and sensitive land uses are planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with Provincial guidelines, standards and procedures. Section 2.I.1.2 outlines the same criteria in the PPS above to determine where avoidance is not possible.

Regional staff recommended prohibiting new sensitive uses until such time that a record of site condition is completed and acknowledged by the Minister. This provision is included in the site-specific zoning proposed by Planning staff with this application.

Planning staff is of the opinion that the applications conform to the Region of Waterloo Official Plan. Regional staff have no concerns with the peer review undertaken by RWDI for the proposed installation of a Facultative FT-III cremator on the subject lands, subject to the mitigation criteria outlined above in the PPS section of this report.

Regional Planning staff have no objections to the proposed applications and provided comments (Appendix E) that will be taken under advisement for future development applications.

### **City of Kitchener Official Plan**

The vision of the City's Official Plan states *"Together we will build an innovative, vibrant, attractive, safe, complete and healthy community contributing to an exceptional quality of life."* A complete community creates and provides access to a mix of land uses including a full range and mix of housing types. 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. 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.

### **Urban Structure**

The City's Urban Structure is composed of Intensification Areas which include the Urban Growth Centre (Downtown), Major Transit Station Areas (MTSA), City Nodes, Community Nodes, Neighbourhood Nodes, Urban Corridors and Arterial Corridors. They are connected by transit corridors and the integrated transportation system which are key elements in shaping growth and built form in the city. Policy 3.C.2.1 states that lands within Urban Structure Components will be

designated an appropriate land use to achieve their planned function. The policies pertaining to each Urban Structure component stipulate what the applicable land use designations may include.

The lands are identified as a Community Node and Community Area in the Official Plan. Community Nodes are located along existing or planned transit corridors. The planned function of Community Nodes is to provide for commercial uses with a mix of residential and institutional uses necessary to support and complete surrounding residential communities. Community Nodes primarily serve an inter-neighbourhood market and are intended to intensify, be transit-supportive and cycling and pedestrian-friendly.

#### Commercial Land Use Designation

Lands designated as 'Commercial' are intended to provide for a range of retail and service commercial uses that cater primarily to the weekly and daily needs of residents within the surrounding neighbourhoods. A funeral home is a permitted use for lands designated as Commercial within a Community Node.

#### Noise, Vibration, Light and Other Emissions

An objective in the Official Plan is to minimize and mitigate land use conflicts between sensitive land uses, and noise, vibration and emission sources in accordance with all applicable Provincial, Regional and City regulations and guidelines. The City has regard for the Provincial Land Use Compatibility Guidelines relating to noise, vibration, odour and particulate matter when considering the siting of sensitive land uses.

#### Official Plan Conclusions

Planning staff is recommending approval of the Official Plan Amendment and Zoning By-law Amendment application to permit the expansion of the existing funeral home use and the establishment of a crematorium use. The existing funeral home is a permitted use in the Official Plan and Zoning By-law and the Owner has submitted the required land use compatibility reports to satisfy Provincial requirements for a crematorium use. Funeral homes are permitted within Community Nodes and the planned function of Community Areas is to provide for residential uses as well as non-residential supporting uses intended to serve the immediate residential areas.

The property municipally addressed as 507 Frederick Street is designated as 'Commercial' and the four Becker Street properties (triangle shaped property and 40, 44, and 48 Becker Street) are designated as 'Low Rise Residential' in the City's Official Plan. A portion of lands form part of a Community Node in the City's Urban Structure.

Planning staff are supportive of amending the land use designation of 40, 44, and 48 Becker Street, as well as the triangle-shaped portion of land), from 'Low Rise Residential' to 'Commercial'.

For clarity, Planning staff are recommending adding Specific Policy Area 58 in the Official Plan to permit a crematorium/cremator use as an accessory use to a funeral home use. While Zoning By-law 2019-051 lists a crematorium and funeral homes as separate uses, the Official Plan does not list the two uses separately. Funeral home is not a defined term in the Official Plan.

## Reports, Studies and Technical Memos

The following reports and studies were considered as part of this proposed Official Plan Amendment and Zoning By-law Amendment and are available on the planning applications webpage:

- Acoustic Assessment Report
- Emission Summary and Dispersion Report
- Emission Summary and Dispersion Report - Updated
- Land Use Compatibility Report
- Landscape Buffer Concept
- Planning Justification Report
- RWDI Peer Review - January 29, 2021
- RWDI Peer Review - May 26, 2021
- Servicing Brief
- Storm Water Management Brief
- Tree Management Plan
- Water Distribution Report

# WHAT WE HEARD



**Approximately 60 people provided comments**



**3 Neighbourhood Meetings held, 2 City-led, 1 Owner-led**



**129 households circulated and notified**

### Department and Agency Comments:

A copy of all comments received from the commenting agencies and City departments are attached as Appendix 'E'. In summary, there are no outstanding concerns with the proposed applications. Additional considerations or concerns will be addressed through the site plan approval process.

### Community Input and Staff Responses:

Planning staff received written submissions which are attached as Appendix 'F'.

### **Crematorium Use & Operation**

The majority of comments received by Planning Staff are in relation to the proposed crematorium use. Comments included concern about the crematorium's emissions, as well as the proximity to existing residential uses and schools. Some commenters preferred that the crematorium use be located in an industrial area of the City instead. Concerns were raised about smoke and smells being omitted from the smokestack, as well as mercury emissions into the air.

Until Zoning By-law 2019-051 defined a crematorium as a separate use, a crematorium was permitted as of right as an accessory use to a funeral home. Under the Funeral, Burial and Cremation Services Act, there is a requirement for the municipality to give approval to establish a crematorium,

before the Province can issue a license for the crematorium. This approval is above and beyond all other municipal requirements. As part of the approval, the municipality must give consideration as to whether the crematorium is in the public interest. Once the municipality makes a decision, there is a requirement to send a copy of that decision, and the reasons for it, to the Provincial registrar and to publish a notice of the decision in a local newspaper. There is the ability for the applicant, registrar or any person to appeal the decision of Council to the Ontario Land Tribunal.

Staff have reviewed the request for a crematorium at this location and are of the opinion that it is in the public interest and are recommending that Council give its approval as required under the Funeral, Burial and Cremation Services Act.

The proposed crematorium is proposed to be located as an accessory use to an existing funeral home. A funeral home is a permitted use in the Official Plan and the Zoning By-law for lands addressed as 507 Frederick Street.

There is a no specific locational criteria prescribed in the Funeral, Burial and Cremation Services Act, however Zoning By-law 2019-051 only permits a crematorium to be located in the EMP-3 (Heavy Industrial Employment) zone, and shall not be located within 250 metres of a residential use, a day care facility, elementary school, secondary school or a post-secondary school or a lot zoned to permit a residential use. While the proposed crematorium is located 56 meters from the closest residential use, Planning staff are of the opinion that this is an appropriate separation distance given the required mitigation measures outlined the PPS section of this report, and the findings of the Land Use Compatibility Study, Emission Summary and Dispersion Modelling (ESDM) Report, and the Acoustic Assessment Report, prepared by Trinity Consultants.

The ESDM Report states that:

*“...emissions from a facility are described as being either point source or fugitive emissions. Point source emissions are those emissions that have been collected and discharged through a device such as an exhaust stack. Fugitive emissions are defined as emissions that are not collected but escape uncontrolled from the cremation unit and through the facility through openings such as doors, windows, and cracks in walls.*

*In older cremation technologies, incomplete combustion can lead to occasional discharge of smoke and odour emissions from the exhaust stacks, while a lack of airtight system in the older technologies can lead to fugitive discharges of smoke or odour emissions. In newer and modern cremation unit, such as Facultatieve FT-III Cremator, the cremation process is controlled and monitored via a PC-based SCADA (Supervisory Control And Data Acquisition). The SCADA controls the cremation and combustion activities by monitoring several parameters. The cremation process does not begin until both combustion chambers have reached the required minimum temperatures, which ensures that the entire cremation process occurs at temperatures to burn and incinerate any organic matter. During the combustion process, the control system constantly monitors the oxygen level and controls the amount of secondary air supplied to ensure complete combustion of the body and all organic matter. The complete combustion of the gases in the secondary chamber ensures that there is no visible smoke or odor discharged from the exhaust stack.*

*The airtight cremator ensures that there is no fugitive smoke or odour escaping from the cremator. Once the body has been loaded into the cremator, the casket loading door is closed, creating an airtight system in which air is supplied to the chambers by blowers for combustion and to maintain temperatures, while a second blower is used to discharge the completely combusted gases through the exhaust stack. Once the cremation process has started, the airtight system ensures that there are no fugitive releases of any smoke or odour*

*and that all emissions are discharged only through the exhaust stack. Fugitive emissions are not expected from the cremation unit.*

*As a result of both the airtight cremator, which ensures that any emissions are discharged only through the exhaust stack, and the complete combustion of the gases in the secondary chamber, the cremation unit is not likely to be a nuisance and are not likely to cause an adverse effect on the surrounding properties from odour, smoke or any dust emissions.”*

As noted above, the City retained RWDI Consultants to peer review the reports submitted by Trinity Consultants on behalf of the Owner. The two responses from RWDI are attached as Appendix H.

RDWI's first response in January 2021 identified that odour must still be assessed quantitatively before RDWI can reach a conclusion on the Land Use Compatibility Study. RDWI also requested site plans which identify sources of contaminants, coordinates, and building heights and requested Site plans that meet the regulatory requirements in order to review the dispersion modelling assessment. RDWI also requested additional information on the electronic input and output files to provide certainty that the modelling meets the requirements of MECP Guideline A11: Air Dispersion Modelling Guideline for Ontario. RDWI also required that specifications be provided for the Facultative Technologies Model FT III DE Cremator in the report.

RDWI did not agree with the classification of this facility as a Class I facility, however found that the acoustic assessment report demonstrates that sound levels at the property line will range from approximately 50 to 60 decibels, and should be classified as a Class II facility. Despite the classification, RDWI found that the Acoustic Assessment Report demonstrates that with mitigation and with the proposed setbacks, sound levels from the facility meet the requirements of NPC-300. RDWI notes that based on the calculations provided in the acoustic assessment report, the barrier at the property line reduces sound levels to comply with NPC-300 and agrees that this is an appropriate means of reducing Sound levels at these points of reception.

In May 2021, RWDI reviewed the responses to the peer review comments, updated ESDM report and dispersion modelling provided by Trinity Consultants. RWDI notes that the air quality issues raised previously with respect to the Land Use Compatibility Study have been addressed with the updated ESDM Report and the associated source testing information. RDWI notes that there are no longer any outstanding material issues with the assessment. With the source testing information and odour analysis provided, and the move from two cremation units to a single unit, RWDI is satisfied that the proposed facility will be in compliance with the appropriate benchmarks, and does not pose a significant risk with respect to air quality. This statement is based on the stipulation that the unit continues to function optimally. RWDI notes that periodic source testing should be conducted to ensure that this is the case. RWDI notes that the sound power levels used in the modeling for the acoustic assessment report are largely based on manufacturer data, and while this is common practice when sources of noise cannot be measured, it leads to increased uncertainty in the assessment results. RDWI notes that sound power levels used in the modeling appear to be in line with expected sound levels for these types of equipment - this applies to both the cremator and to existing sources at the site. In summary, RWDI notes that the air quality concerns raised previously with respect to the ESDM report and Land Use Compatibility Study have been addressed, assuming normal functionality, and periodic source testing should be conducted to ensure that this is the case. RWDI also concludes that a high-level review of the Acoustic Assessment Report shows some conservatism, but generally accepted sound power levels for sources and modelling methodology.

Trinity Consultants confirmed that manufacturer data is not the method used to estimate the air emissions from the cremation units. The emissions in the air quality assessment that will be submitted to MECP, as part of the application for a permit, was prepared using results from a stack

testing conducted in 1992 by independent and certified testing firm that was reviewed by the U.S. Environmental Protection Agency. Further, as part of any permit issued by the Ministry to Henry Wasler Funeral Home, the Ministry will include a condition that requires the emissions from the cremation unit at Henry Walser Funeral Home to be tested by a stack testing firm (i.e. not the manufacturer).

With respect to mercury emissions, the first ESDM report notes that mercury emissions were evaluated to be 16.7% of the MECP allowable standards. In the updated ESDM report, with only one crematorium unit (reduced from two to one), Trinity Consultants has advise that mercury emissions are low enough that they could be screened out from further calculation, in compliance with MECP standards.

Planning staff have been advised that crematorium units manufactured by Facultatieve Technologies (same manufacturer as the unit to be installed at Henry Walser Funeral Home) have been installed in Ontario over the past few years and each of those crematoriums were required to complete stack tests by stack testing firms (i.e. not the manufacturer) and each of those stack test reports would have been submitted to MECP for review and approval.

Through the site plan and building permit process, detailed review of design drawings will be completed by Fire and Building staff to ensure that appropriate fire separation, venting and clearances are provided as per building code requirements.

Adequate notice through the Official Plan Amendment and Zoning By-law Amendment applications has been provided to the public that a crematorium is proposed on the site. While the Funeral, Burial and Cremation Services Act does not require a public meeting, the proposed crematorium has been publicly advertised and the decision will be made at a public meeting. The report and notice of the meeting will be available on the City's website.

Planning staff followed up with staff at MECP staff who confirmed that typically there is a minimum requirement in air emission ECAs for an operations/maintenance program which would require sufficient maintenance to continue operating the equipment to meet the proposed emissions concentrations from the application. MECP staff also advised that the ECA is specific to the equipment being applied-for within the ECA application itself. If equipment is changed, another application is required to amend the ECA to reflect the new equipment.

MECP staff also confirmed that there have been no complaints filed for Families First Funeral Home & Signature Tribute Centre Inc. in Windsor, Ontario (3260 Dougall Avenue, Windsor, Ontario N9E 1S6) who operate a FT III Cremator (the same equipment proposed at Henry Walser Funeral Home). Families First Funeral Home & Signature Tribute Centre Inc. is also immediately adjacent to low rise residential uses. MECP also confirmed that they have not received any complaints regarding the cremator being operated by Kitchener Funeral Home & Crematorium located 3 Forwell Road in Kitchener.

Staff are of the opinion that there has been sufficient review of the crematorium proposal at the Municipal level. Should Council wish to permit a crematorium use at this site, an ECA from MECP will be required. It is staff's understanding that there are rigorous requirements through MECP approval for emissions, noise and operations. A municipal approval is required prior to a licence being issued by the Provincial registrar for the crematorium.

## **Loss of Residential Uses**

Planning staff also heard about concerns for the loss of the residential dwellings located at 40, 44, and 48 Becker Street. The expansion proposal would require the demolition of the existing residential building to accommodate the required off-street parking. Planning staff understand that some of these units are currently occupied by renters.

As noted above, ROP Amendment No. 6 has been adopted is with the Minister for consideration. Policy 3.A.15 requires area municipalities to develop official plan policies and implementing zoning by-laws to regulate the demolition of existing residential rental units buildings with six or more units where the replacement of rental units is permitted, any replacement units will include the same or higher number of units of comparable bedroom mix and affordability; and where the demolition of rental units is permitted, existing tenants will be compensated in accordance with the regulations of the Residential Tenancies Act, 2006. Once ROP Amendment No. 6 is approved by the Minister, the City will develop policies in the Official Plan and implementing zoning by-laws to regulate the demolition of existing residential rental units building subject to the same criteria as ROP Amendment No. 6.

New residential uses cannot be permitted until such time as a Record of Site Condition is completed and approved by the Minister. However, Planning staff have added a special regulation in the site specific zoning to permit the existing residential uses so they remain as legal residential dwellings if Council approves the Official Plan Amendment and Zoning By-law Amendment. That would allow more flexibility in terms of timing and would allow the residential units to remain longer during construction to allow the Owner and the residents more time to find alternative housing arrangements. Planning staff are also able to connect any affected residents with the appropriate housing staff contacts. Matters between a Landlord and a tenant are a Provincial matter under the Residential Tenancies Act.

An owner must obtain Demolition Control approval before demolishing any residential building in the demolition control area (residential zoning). If Council were to approve the zoning by-law amendment for 40, 44, and 48 Becker Street, Demolition Control Exemption could be issued at a staff level.

## **Existing Traffic and On-Street Parking in the Community**

Planning staff received comments with concerns about ensuring a sufficient supply of vehicle parking spaces to ensure that on-street parking and parking at other commercial businesses in the area are not relied on for the funeral home. The Owner had advised that they intend to continue to actively manage parking operations on their site and working with other commercial property owners if there are issues.

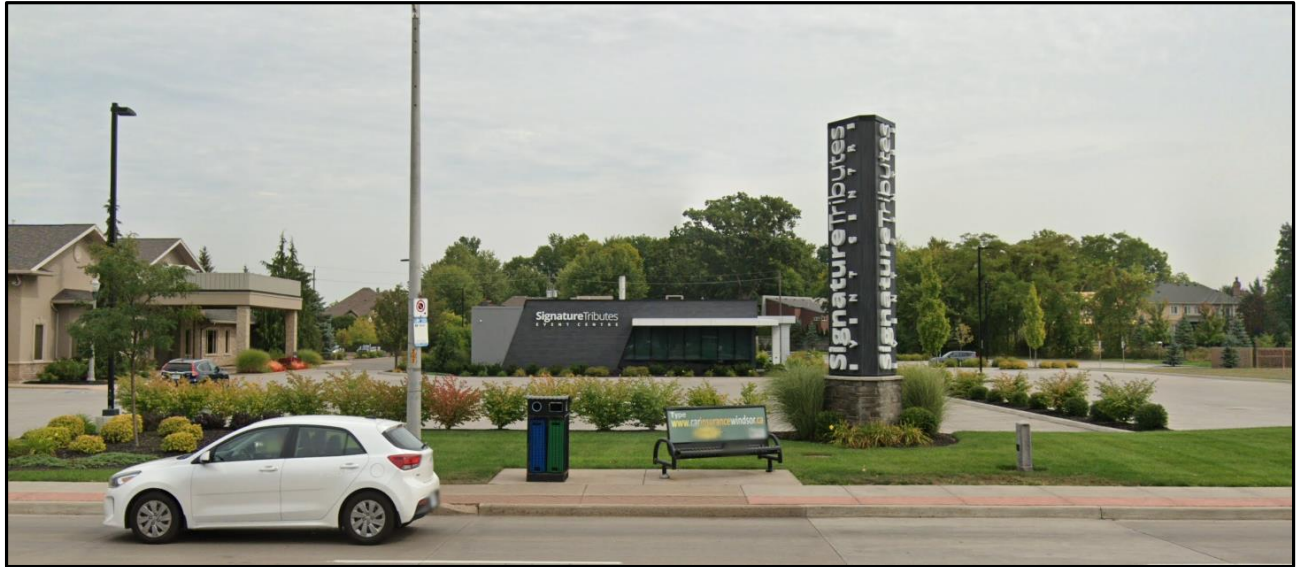
Planning staff are recommending a site-specific minimum parking rate of 1 space per 24.5 square metres of floor area, a reduction from the requirement of 1 space per 23 square metres. Based on a rate of 1 space per 23 square metres, a total of 132 parking spaces would be required, and a total of 121 parking spaces are provided on site. However, with the additional employee parking lot proposed on the opposite side of Becker Street, the parking requirement is met at the required rate overall. The parking reduction is necessary for zoning compliance as the Ministry of Transportation has advised that parking spaces within their highway setback cannot be counted in the provided parking calculation. A provision is included in the site-specific zoning to permit tandem parking in the employee parking lot in order to maximize parking options.

Zoning By-law 2019-051 introduced maximum parking requirements for most uses, including funeral homes. The maximum parking rate is 1 space per 17 square metres of floor space.



## Appearance of Smokestack

Some residents were concerned about the appearance of the smokestack for the crematorium unit. Planning staff will work with the Owner through the site plan process to minimize the appearance of the smokestack as much as possible. Rooftop screening will also be required as noted above as a mitigative measure. Below is a streetview image of Families First Funeral Home & Signature Tribute Centre Inc. in Windsor (who operate a FT III Cremator, the same equipment proposed at Henry Walser Funeral Home).



## Loss of trees

Planning staff received comments about the loss of the mature trees at 40, 44, and 48 Becker Street. New trees will be required as part of the landscape plan at the future site plan process. Shared trees along property lines will be retained and protected during construction.

## Property Value

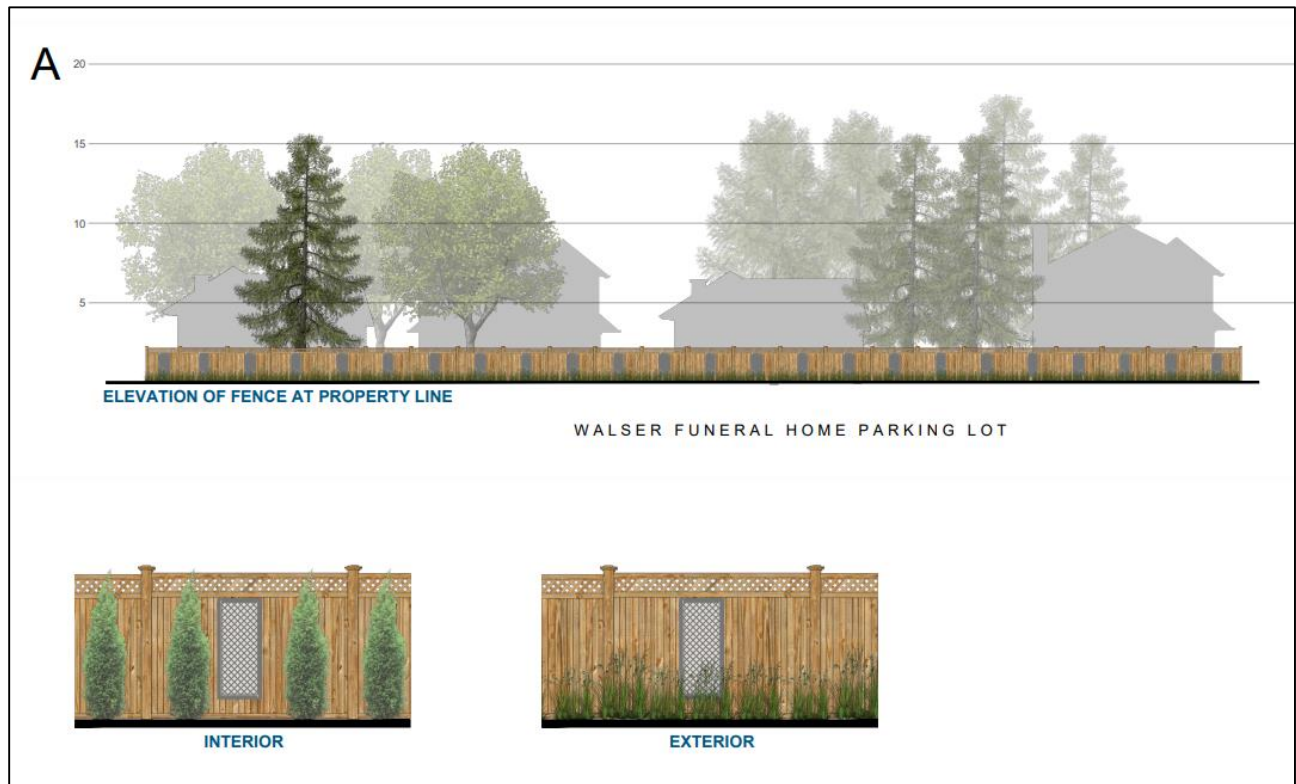
Property owners also questioned whether there would be any impact to property value. Planning staff are not able to predict the impact of a new development on property values. For assessment purposes, which is used to calculate taxes, MPAC assesses property based on up to 200 different factors including the size of lot and house, the quality of construction, as well as many others. The assessed value usually differs from the market value of a property, and market value is influenced by numerous factors as well.

## Sidewalk to Becker Street

At one point, the proposal included the potential closure of Becker Street. However, Henry Walser Funeral Home is no longer pursuing the purchase of Becker Street. In the coming year, the Ministry of Transportation (MTO) will be working on the design of the replacement bridge for Frederick Street (over the expressway) and final determination will be made on the setback of noise walls between the widened expressway and the west wall of the existing funeral home. The City will continue to request that a sidewalk connection be provided to Frederick Street (from Becker Street) through MTO design process.

## Buffering to Rear Yards on Ann Street and Fife Avenue

Planning staff received comments about the potential for vehicle headlight and parking lot lighting to trespass into the backyards of properties on Ann Street and Fife Avenue. The Applicant has provided an enhanced landscape screening concept (shown below) which will be required through the site plan process along the shared property lines, ensuring a minimum 1.8 metre tall visual barrier between the parking areas and the backyards on Ann Street and Fife Avenue. This will be in addition to the required noise walls adjacent to 133 Ann Street.



**Concept Drawing of Visual Barrier**

### Planning Conclusions:

Community input over the last 5 years has been considered and resulted in changes to the proposal. The development proposal evolved with input from community members, City staff, peer review of supporting studies, and commenting agencies. The most significant change was reducing the number of proposed crematoriums on site from two to one.

Provincial, Regional, and City planning policy provide guidance that must be considered when evaluating changes in land use permissions. Planning staff are of the opinion that the subject lands are an appropriate location for the existing funeral home to expand, including a new crematorium / cremator.

The Ministry of the Environment, Conservation and Parks (MECP) is responsible to review a request for an Environmental Compliance Approvals (ECA), including the proposed cremator unit, an ongoing operations/maintenance program, as well as emissions testing.

Concerns raised during the review of the application were evaluated through an independent peer review of the Land Use Compatibility Study, Emission Summary and Dispersion Modelling (ESDM)

Report, and the Acoustic Assessment Report, prepared by Trinity Consultants. The use is appropriate and impacts can be mitigated on site to meet Provincial standards. Comments about site design will be addressed through the site plan process.

Based on this analysis, Planning staff is recommending approval of the Official Plan Amendment and Zoning By-law Amendment applications.

### **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 – The Official Plan Amendment and Zoning By-law Amendment applications were circulated for comment to internal departments, external agencies, and all property owners within 120 metres of the subject lands on August 18, 2017. A list of interested residents was continually updated throughout the application process. Written responses from property owners and interested parties are attached as Appendix 'F'. This report will be posted to the City's website with the agenda in advance of the Council / Committee meeting. Notice signs were posted on the property since the summer of 2017. A postcard advising of the Planning and Strategic Initiatives Committee Meeting (Statutory Public Meeting) was sent to everyone who participated in the process and all property owners within 120 metres of the subject lands. A copy of the notice was also emailed to all community members that provided an email address through the application process.

INFORM - This approval is being considered under Section 83(3) of the Funeral, Burial and Cremation Services Act. The council meeting where this report is being considered is a public meeting that will be advertised along with the report on the City's website. A copy of the City's decision will be posted in The Record.

CONSULT – An in person Neighbourhood Information Meeting (NIM) was held on September 14, 2017 at Henry Walser Funeral (on site). A second virtual NIM was held on November 21, 2021. These meetings provided an opportunity for community members to share their perspectives, have a chance to speak, and ask questions.

Notice of the public meeting will appear in The Record on December 16, 2022 (a copy of the Notice may be found in Appendix G).

### **PREVIOUS REPORTS/AUTHORITIES:**

- Planning Act
- Funeral, Burial and Cremation Services Act
- Provincial Policy Statement, 2020
- A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020
- Regional Official Plan and ROP Amendment No. 6
- City of Kitchener Official Plan
- Zoning By-laws 85-1 and 2019-051

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

**ATTACHMENTS:**

- Appendix A - Proposed Official Plan Amendment & Schedules
- Appendix B - Proposed Zoning By-law and Map No. 1 (Zoning By-law 85-1)
- Appendix C - Proposed Zoning By-law and Map No. 1 (Zoning By-law 2019-051)
- Appendix D - Development Concept
- Appendix E - Department/Agency Comments
- Appendix F - Community Input
- Appendix G - Notice of Statutory Public Meeting
- Appendix H - Peer Review Comments provided by RWDI Consultants