

# **Staff Report**

*Development Services Department*



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<b>REPORT TO:</b>	<b>Committee of Adjustment</b>
<b>DATE OF MEETING:</b>	<b>April 18, 2023</b>
<b>SUBMITTED BY:</b>	<b>Tina Malone-Wright, Interim Manager, Development Review 519-741-2200 ext. 7765</b>
<b>PREPARED BY:</b>	<b>Andrew Pinnell, Senior Planner, 519-741-2200 ext. 7668</b>
<b>WARD INVOLVED:</b>	<b>Ward 6</b>
<b>DATE OF REPORT:</b>	<b>April 6, 2023</b>
<b>REPORT NO.:</b>	<b>DSD-2023-184</b>
<b>SUBJECT:</b>	<b>Minor Variance Application A2023-048 - 1200 Fischer Hallman Road</b>

## **RECOMMENDATION:**

### **Zoning By-law 85-1**

**That Minor Variance Application A2023-048 for 1200 Fischer Hallman Road requesting relief from Section 6.1.2 a) of Zoning By-law 85-1, to permit a parking requirement of 0.91 parking spaces for each dwelling unit, (285 parking spaces), instead of the minimum required 1 parking space for each dwelling unit, (313 spaces), to facilitate the development of a mixed-use building, in accordance with Site Plan Application SP22/169/F/AP, BE APPROVED.**

## **REPORT HIGHLIGHTS:**

- The purpose of this report is to review a minor variance to permit a slightly reduced parking ratio to facilitate the development of 34-storey mixed-use building.
- 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 at the northeast corner of Bleams Road and Fischer Hallman Road. The property is located at the gateway to the Rosenberg Planning Community, which is undergoing significant development growth.

The subject lands are presently undeveloped. The property is subject to a site plan application which is nearing conditional approval and which proposes a 34-storey mixed-use building with 312 square metres of ground floor commercial space and 313 dwelling units within the 33-storeys above (Site Plan Application SP22/169/F/AP). All parking is proposed to be contained within the building in the form of one level of underground parking and six levels of structured parking.

The lands to the north and east are subject to a Site Plan Application which has been conditionally approved to develop 96 stacked townhouse units and 42 cluster townhouse units (SP23/006/F/AP). Lands further to the east (minimum 118 metres) are part of the Country Hills West Planning Community and comprise mainly low rise residential development.

The lands on the opposite side of Bleams Road are subject to a Site Plan Application that is nearing conditional approval which proposes a 13-storey residential building containing 202 dwelling units. Lands on the opposite side of Fischer Hallman Road are developed with several 1-storey commercial buildings and are zoned 'Convenience Commercial Zone (C-1)' in By-law 85-1 (same as the subject property). The properties at the southwest corner of Bleams Road and Fischer Hallman Road are designated in the Rosenberg Secondary Plan for High Density Residential and Medium Density Residential land uses.

The subject property is identified as 'Corridor' on Map 22a – Community Structure Plan and is designated 'Mixed Use Two' on Map 22e – Land Use Plan, within the Rosenberg Secondary Plan. The property is zoned 'Convenience Commercial Zone (C-1)' in Zoning By-law 85-1. At this time, the Rosenberg Secondary Plan is not subject to Zoning By-law 2019-051.

The purpose of the application is to reduce the parking requirement from 1 parking space for each dwelling unit, (313 spaces), to 0.91 parking spaces for each dwelling unit, (285 spaces), to facilitate the development of the aforementioned mixed-use building.

Planning staff visited the site on January 15, 2023.



**Figure 1 – Aerial view of subject property (outlined in white)**



**Figure 2 – Image looking northwest towards the subject property from 1295 Bleams Road / 1250 Fischer Hallman Road.**

**REPORT:**

**Planning Comments:**

In considering the four tests for the minor variances as outlined in Section 45(1) of the Planning Act, R.S.O, 1990 Chap. P 13, as amended, Planning staff offers the following comments:

**General Intent of the Official Plan**

It must be noted that the *Planning Act* test to examine whether the general intent and purpose of the Official Plan is maintained relates to whether the general intent and purpose is maintained with respect to the variance itself, not the land use or development which might be facilitated by the variance.

In this case, the property was designated as Mixed Use Two through the Ontario Municipal Board's (now Ontario Land Tribunal) approval of the Rosenberg Secondary Plan (RSP). The Mixed Use Two designation permits a maximum Floor Space Ratio (FSR) of 4.0 and a maximum building height of 10 storeys (note that additional building height up to a maximum of 14 storeys may be considered provided certain criteria are satisfied and subject to approved studies and drawings).

The City has not yet undertaken an exercise to comprehensively rezone the lands within the RSP area to implement the RSP. Accordingly, the current zoning within the RSP area has not yet been aligned with the land use designations of the more recent RSP. This also applies to subject site, which is zoned C-1.

However, the Zoning By-law ultimately regulates the characteristics of a development proposal undergoing the Site Plan process, not Official Plan policies. In this case, the C-1 Zone does not prohibit the proposed use of the land for a 34-storey mixed-use building with a FSR of 10.2, despite RSP's policies which specify a maximum building height of 10 storeys and an FSR of 4.0. In fact, the 'C-1' Zone does not possess any building height or FSR restrictions.

Regarding the requested variance for a parking reduction, the Official Plan test must review whether the general intent and purpose of the Official Plan with respect to the requested *variance* is maintained, not the general intent and purpose with respect to the proposed height, massing, or any other parameter referenced in the Official Plan.

In this regard, the Rosenberg Secondary Plan and 2014 Official Plan outline several applicable policies that relate to parking, such as:

Rosenberg Secondary Plan:

- 13.10.2.8.2.10 The implementation of Transportation Demand Management measures shall be considered as part of every application for new development or redevelopment within the Secondary Plan area
- 13.10.3.2.1.10. To further encourage transit supportive development in the Mixed Use designation, the City will consider incentives for Mixed Use properties within 450m of a transit stop on Fischer Hallman Road such as: i. Reducing parking requirements...

2014 Official Plan:

- 4.C.1.8. Where a special zoning regulation(s) or minor variance(s) is/are requested, proposed or required to facilitate residential intensification or a redevelopment of lands, the overall impact of the special zoning regulation(s) or minor variance(s) will be reviewed, but not limited to the following to ensure, that:...e) The lands can function appropriately and not create unacceptable adverse impacts for adjacent properties by providing both an appropriate number of parking spaces and an appropriate landscaped/amenity area on the site.
- 13.C.7.4. The City will consider reduced parking requirements for development and/or redevelopment in accordance with Policy 13.C.8.2 where a comprehensive Transportation Demand Management Report is submitted to the satisfaction of the City.
- 13.C.8.2. The City may consider adjustments to parking requirements for properties within an area or areas, where the City is satisfied that adequate alternative parking facilities are available, where developments adopt transportation demand management (TDM) measures or where sufficient transit exists or is to be provided.

In response to these policies, Planning staff advise that the subject property is located on two local transit routes (Routes #12 and #33). Additionally, the property is within 500 metres of an iXpress route, which may be rerouted in the future to serve the Rosenberg community, including the subject property, as it develops.

A *Parking Study and Access and Circulation Review*, prepared by Paradigm Transportation Solutions, dated March 2023 was submitted in support of the parking reduction variance. The report outlines several proposed Transportation Demand Management measures, including:

- Internal sidewalks with connections to the existing municipal multi-use trails.
- 165 bicycle parking spaces on-site including 158 indoor, secure spaces and 7 outdoor spaces.
- Access to multiple bus transit routes that provide good connectivity to the broader network and access to major destinations.
- Parking unbundled from the sale/rent agreement of each unit.
- Bicycle parking provided beyond the minimum 2019-051 Zoning By-Law requirement.
- Provision of car share vehicles and dedicated parking spaces in a priority location.
- Provision of subsidized transit passes for all occupants for a period of two years.

Transportation Services has reviewed the aforementioned report and agrees with the findings which recommend support of the parking reduction (see below for detailed comments).

Accordingly, Planning staff is of the opinion that the requested variance for a parking reduction meets the general intent and purpose of the Rosenberg Secondary Plan and 2014 Official Plan.

**General Intent of the Zoning By-law**

The purpose of the parking regulations contained within of Section 6.1.2a) of By-law 85-1 is to ensure that sufficient on-site parking is provided to support land uses. As noted in Policy 13.C.7.4, above, "the City will consider reduced parking requirements for development and/or redevelopment in accordance with Policy 13.C.8.2 where a comprehensive Transportation Demand Management Report is submitted to the satisfaction of the City." In this case, such a report has been submitted that justifies a reduced parking ratio. In this regard, Planning staff is satisfied that requested variance meets the general intent and purpose By-law 85-1.

**Are the Effects of the Variance Minor?**

Planning staff is of the opinion that the requested variance is minor in that it is not anticipated to cause unacceptably adverse impacts on adjacent properties. Transportation Services staff confirms that the supporting documentation provided with the application justifies the requested parking reduction. Adequate on-site parking will be provided for both residents, visitors, and customers.

**Is the Variance Desirable for the Appropriate Development or Use of the Land, Building and/or Structure?**

The requested variance will facilitate a use/development that fully complies with the 'C-1' Zone (except for parking). The proposal will provide a significant amount of housing in the form of high-density, multiple residential development, which is important during the present housing crisis and which will support the City's Housing Pledge. Moreover, the proposed mixed-use development will assist in creating complete community. Through the Site Plan process, Planning staff will work with the developer to achieve a high level of urban design. Planning staff is of the opinion that the variance is desirable for the appropriate development of the land.

**Environmental Planning Comments:**

There are no natural heritage concerns or tree management concerns.

**Heritage Planning Comments:**

No concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed variance provided building permit for the mixed-use building is obtained prior to construction. Please contact the Building Division at [building@kitchener.ca](mailto:building@kitchener.ca) with any questions.

**Engineering Division Comments:**

No comments or concerns.

**Parks/Operations Division Comments:**

No concerns; no comments (Parks and Cemeteries requirements will be addressed through Site Plan Application SP22/169/F/AP).

**Transportation Planning Comments:**

After reviewing the Parking Study and Access/Circulation review submitted (March 2023) by Paradigm Transportation Solutions Limited, Transportation Services is of the opinion that the proposed residential vehicle parking ratio of 0.91 parking spaces per unit is acceptable for the proposed 313 units. Of the 286 parking spaces being provided, a minimum 32 parking spaces must

be allocated for the visitor parking. The 32 parking spaces represents approximately 10% of the number of units being proposed.

**Regional Municipality of Waterloo Comments:**

No concerns.

**Grand River Conservation Authority Comments:**

No concerns.

**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:**

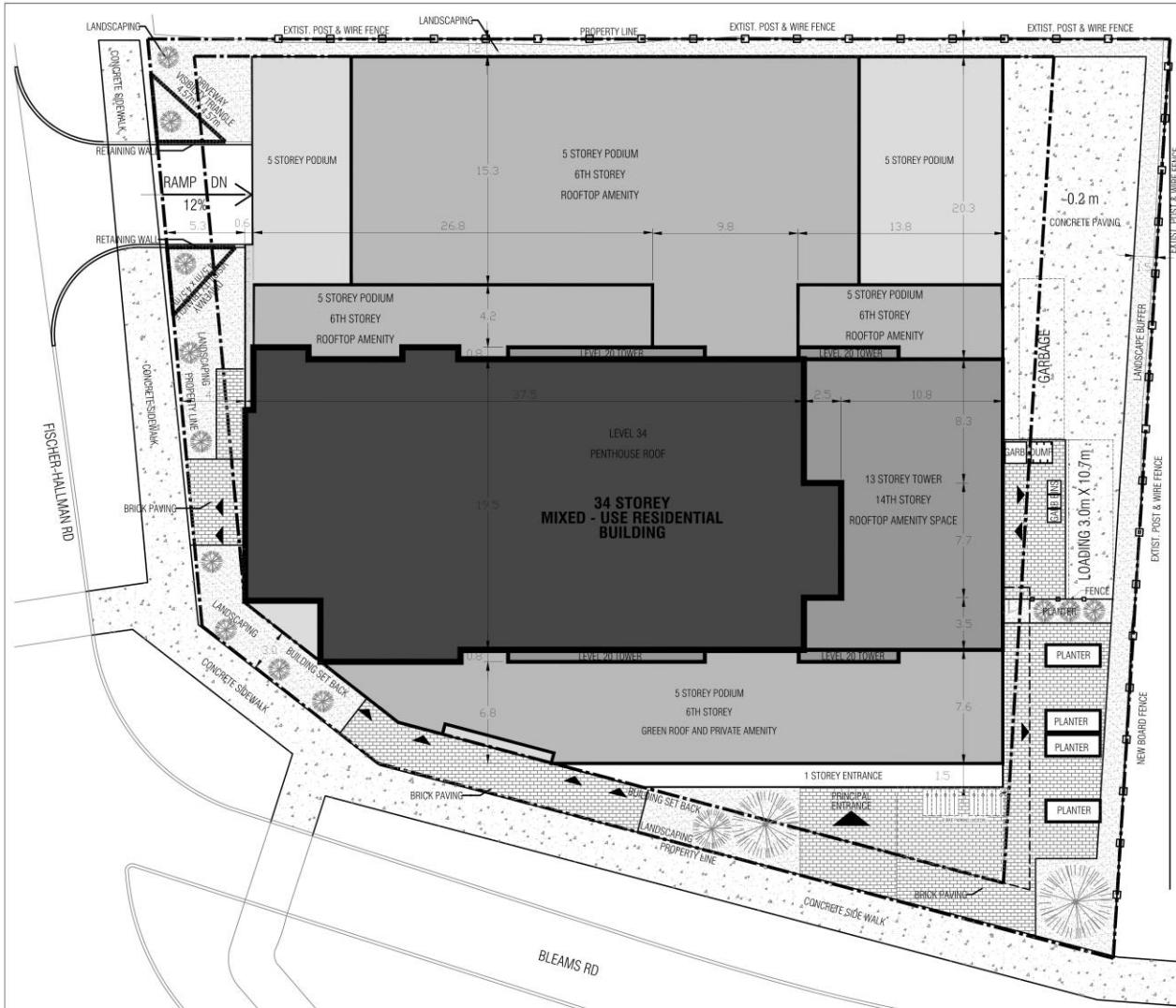
INFORM – This report has been posted to the City's website with the agenda in advance of the Committee of Adjustment meeting. A notice sign was placed on the property advising that a Committee of Adjustment application has been received. The sign advises interested parties to find additional information 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 Policy Statement (PPS 2020)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan*
- *Rosenberg Secondary Plan*
- *Official Plan (2014)*
- *Zoning By-law 85-1*
- *Site Plan Application SP22/169/F/AP*

**ATTACHMENTS:**

Attachment A      Proposed Site Plan drawing included with Minor Variance Application (under review)



## SITE PLAN

1943615 ONTARIO LTD.  
 1200 FISCHER-HALLMAN RD

0 5 10 15 20 25

SCALE 1: 400  
 DATE: 2022-12-08

REVISED:

SITE PLAN APPLICATION No.

LEGAL DESCRIPTION

**City of Kitchener**  
 DEVELOPMENT SERVICES DEPARTMENT

CAD FILE:  
 SP.DWG