



August 14, 2022

Friends of Olde Berlin Town c/o Hal Jaeger
55 Margaret Avenue
Kitchener, ON N2H 4H3

**Re: Preliminary Planning Review – Proposed Multi-Storey Residential Development
22 Weber Street West, Kitchener, ON**

1. Introduction and Executive Summary

I (Michael Barton) am a Registered Professional Planner (RPP) and full member of the Ontario Professional Planners Institute (OPPI). I am the President and Founder of MB1 Development Consulting Inc. (“MB1”) and a highly qualified land use planning and real estate development professional with extensive and diverse experience in all aspects of commercial and residential real estate development. I have practiced land use planning for over 20 years in communities across Ontario and Canada. I have been qualified as an expert in land use planning by the Ontario Land Tribunal (formerly Local Planning Appeal Tribunal (LPAT) and Ontario Municipal Board (OMB)), as well as the Toronto Local Appeal Body (TLAB).

I have been retained by the Friends of Olde Berlin Town as an Expert in Land Use Planning with respect to the proposed development at 22 Weber Street West in the City of Kitchener (the “subject property”). I have reviewed the documents identified in this document in preparing my independent land use planning analysis and opinion.

The Subject Property is located on the north side of Weber Street West between Ontario Street North and Queen Street North. The Subject Property is located within a Major Transit Station Area (MTSA) but is outside the limits of the Downtown Urban Growth Centre. The Subject Property is also located with the Civic Centre Neighbourhood Heritage Conservation District (HCD), which reflects the unique land use and built form character of the neighbourhood. The Subject Property is currently vacant and used as a commercial parking lot, with two one-way driveways providing site ingress and egress. The Subject Property is surrounded by low-rise residential, commercial and institutional uses.

The proposal includes redevelopment of the existing surface parking lot for a 19-storey multiple residential building with 162 dwelling units and gross floor area (GFA) of approximately 11,112.37 m², which translates into a Floor Space Ratio (FSR) of 7.8 times the lot area. An application for Amendment to the City of Kitchener Official Plan has been submitted to permit the proposed density, which is nearly twice the maximum permitted under the current Official Plan policies. An application for Amendment to City of Kitchener Zoning By-Law 85-1 has also been submitted to permit the proposed density in conjunction with reductions to the minimum requirements for landscaping, front and rear yard setbacks and parking. These amendments will facilitate construction of a 19-storey residential apartment building in a low-rise Heritage Conservation

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District with reduced building setbacks and no stepbacks in the building massing to mitigate impacts of the proposed height and massing. The result will be a building that is out of character with the existing land use and built form character of the neighbourhood.

The over-riding justification for the height and density of the development proposal is its location in the Major Transit Station Area (MTSA) and close proximity to the Downtown Urban Growth Centre. The current Official Plan policies are structured to achieve transit-oriented development, particularly the growth and intensification objectives set out under the Growth Plan for the Greater Golden Horseshoe and the Region of Waterloo Official Plan. These policies include a maximum floor space ratio of 4.0 times the lot area, which is intended to control overall development density. However, the City's 2021 Annual Monitoring Report of the Kitchener Growth Management Strategy indicates that the City is already close to or already achieving its 2031 growth and intensification objectives. On this basis, there is no need for additional density to be developed on the Subject Property in order to achieve the City's growth and intensification targets.

This document will outline my professional land use planning opinion that the development proposal and requested amendments to the City of Kitchener Official Plan and Zoning By-Law:

- Are not consistent with the applicable policies of the Provincial Policy Statement, 2020;
- Do not conform to the applicable policies of the Places to Grow Growth Plan;
- Will not amend the City of Kitchener Official Plan in a manner that appropriately implements the objectives, policies and growth targets of the Region of Waterloo Official Plan;
- Do not conform to the objectives, policies and overall policy intent of the City of Kitchener Official Plan, including the Civic Centre Secondary Plan; and
- Will not result in the adoption of site-specific zoning regulations that effectively implement the City of Kitchener Official Plan.

On this basis, it is my opinion that the maximum floor space ratio of 4.0 times the lot area should be maintained in both the City of Kitchener Official Plan and Zoning By-Law to achieve an appropriate level of density on the Subject Property. Similarly, the prevailing zoning regulations for minimum front yard setback and minimum rear yard setback should be maintained to facilitate an appropriate relationship of the proposed building to the public realm and to mitigate the impact of the proposed building height on the properties to the rear.

2. Background and Overview

2.1 *Site Location and Existing Conditions*

The Subject Property is located on the north side of Weber Street West between Ontario Street North and Queen Street North. The site has an area of 0.14 ha (1,392 m²) with approximately 27.2 m (90 feet) of frontage along Weber Street West. The Subject Property is located within a Major Transit Station Area (MTSA)

but is outside the limits of the Downtown Urban Growth Centre. The Subject Property is also located with the Civic Centre Neighbourhood Heritage Conservation District (HCD), which reflects the unique land use and built form character of the neighbourhood.

The Subject Property is currently vacant and used as a commercial parking lot, with two one-way driveways providing site ingress and egress.

2.2 Surrounding Land Uses and Built Form

The Subject Property is surrounded by low-rise residential, commercial and institutional uses, including the following:

- To the north: One and two-storey single detached structures fronting onto Roy Street; these structures include low-rise residential buildings, buildings converted for commercial use and buildings incorporating a combination of residential and commercial uses;
- To the south: Commercial buildings located in the Downtown Urban Growth Centre that are generally two to three storeys in height except for the 11-storey building on the corner of Weber Street West and Queen Street North;
- To the east: Low-rise commercial buildings (2-3 storeys) fronting onto Weber Street West; and
- To the west: Low-rise commercial and institutional buildings (2-3 storeys) fronting onto Weber Street West.

2.3 Existing Land Use Planning Designations

2.3.1 Provincial Land Use Planning Policy

2.3.1.1 Provincial Policy Statement, 2020

The Subject Property is located within the existing “Settlement Area”, which is defined as follows in Section 6.0 of PPS 2020:

Settlement areas: means urban areas and rural settlement areas within municipalities (such as cities, towns, villages and hamlets) that are:

- a) built-up areas where development is concentrated and which have a mix of land uses; and
- b) lands which have been designated in an official plan for development over the long-term planning horizon.

2.3.1.2 A Place to Grow – Growth Plan for the Greater Golden Horseshoe, 2020

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The Subject Property is located within the “Delineated Built-Up Area” and in close proximity to, but not within, a designated “Urban Growth Centre”. The Subject Property is located within a walkable neighbourhood with sidewalks on both sides of Weber Street West and existing transit service within walking distance, including the light rail transit (LRT) line.

2.3.2 Municipal Land Use Planning Policy

2.3.2.1 Official Plan

2.3.2.1.1 Region of Waterloo Official Plan

The Subject Property is designated “Built-Up Area” on Map 3a (Urban Area) of Region Official Plan and north of the limits of the downtown Urban Growth Centre. Weber Street West is a Regional Road and identified as a “Planned Transit Corridor” on Map 5a (Regional Transit Network).

2.3.2.1.2 City of Kitchener Official Plan

The Subject Property is designated as part of the “Major Transit Station Area” on Map 2 (Urban Structure) of the City’s Official Plan but is north of the limits of the Downtown Urban Growth Centre. Weber Street West is identified as a “Planned Transit Corridor”.

The Subject Property is located in the Civic Centre Secondary Plan Area and designated “High Density Commercial Residential” on Map 9 (Civic Centre Neighbourhood Plan for Land Use), which is consistent with the properties immediately to the east and west on the north side of Weber Street West. The Subject Property backs onto properties designated “Office Residential Conversion”. The lands on the south side of Weber Street West are located in the Downtown Urban Growth Centre and designated “City Centre District” on Map 4.

2.3.2.2 City of Kitchener Zoning By-Law 85-1

The Subject Property and the properties immediately to the east and west are currently zoned “Commercial Residential Three (CR-3) Zone”, which permits a range of residential, commercial and institutional uses. The Subject Property backs onto a “Residential Five (R-5) Zone”, which permits various low-rise residential uses in addition to permitting a residential care facility, hospice, private home day care and office uses. The lands to the south (located in the Downtown Urban Growth Centre) are zoned “Office District (D-4)”.

Zoning By-Law 85-1 was adopted prior to adoption of the current City of Kitchener Official Plan and, consequently, the prevailing regulations do not implement the current Official Plan policy intent or the policies and objectives of the Civic Centre Heritage Conservation District Plan.

2.4 Development Proposal

2.4.1 Details of Proposal

The proposal includes redevelopment of the existing surface parking lot for a 19-storey multiple residential building with 162 dwelling units and gross floor area (GFA) of approximately 11,112.37 m², which translates into a Floor Space Ratio (FSR) of 7.8 times the lot area. The Applicant has not yet determined whether the tenure of the dwelling units will be rental or owned (condominium).

The main building entrance is oriented to Weber Street West and will connect directly with the public sidewalk system. A secondary entrance is proposed at the back of the building to provide access to the building from the parking area. A total of 24 parking spaces will be provided through a mix of surface and structured parking (0.15 spaces per unit). One vehicular access to the parking area is proposed via a driveway from Weber Street West. This driveway is shared by the adjacent property owner via the existing shared access easement.

There is no stepping back in the floor plate area between levels 2 and 19 that would provide an angular plane or terracing of building mass. Reduced front and rear yard setbacks are also proposed to accommodate the proposed footprint. The result is a building that is nearly twice the floor area permitted on the Subject Property under the Official Plan and Zoning By-Law and constructed closer to the front and rear property lines than permitted under the prevailing zoning regulations.

2.4.2 Development Applications

The applicant is proposing to amend the City of Kitchener Official Plan by maintaining the existing “High Density Commercial Residential” designation by adding a special policy area to permit a floor space ratio (FSR) of 7.8 times the lot area where the current maximum is 4.0. This increase in FSR will facilitate development of a 19-storey residential building.

In conjunction with the Official Plan Amendment, the applicant is proposing to amend the Zoning By-Law by maintaining the existing Commercial Residential Three (CR-3) zoning with site-specific regulations to permit the following:

- Maximum Floor Space Ratio of 7.8 (4.0 permitted);
- Minimum Ground Floor Façade Height of 4.5 metres (no minimum currently provided);
- Minimum Landscaped Area of 8% (10% required);
- Minimum Front Yard Setback of 0.8 metres (3 metres required);

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- Minimum Rear Yard Setback of 15 metres (7.5 metres or one half the building height, whichever is greater shall be required);
- Minimum Parking Space Requirement of 24 spaces (including 8 visitor spaces) or 0.15 spaces per unit while the current zoning permits a blended parking rate of 0.165 spaces for smaller studio units (to a maximum of 40% of units that are less than 51 square metres in size) and 1.25 spaces per unit for units larger than 51 square metres.

The effect of these applications is to facilitate redevelopment of the Subject Property for a 19-storey multiple residential building with nearly twice the permitted floor area, constructed closer to the front and rear property lines than currently permitted and with less than the minimum required parking.

2.5 Kitchener Growth Management Strategy 2021 Annual Monitoring Report

The Annual Monitoring Report of the Kitchener Growth Management Strategy (KGMS) was prepared on October 4, 2021. This report indicates that the City is meeting or exceeding its growth targets established under the Region of Waterloo Official Plan. The following are key highlights relevant to my analysis:

- The number of residents and jobs per hectare (RJs/ha) in the Urban Growth Centre (Downtown) is 212 RJs/ha, surpassing the provincially mandated target of 200 RJs/ha by 2031, and approaching the City's higher Official Plan minimum target of 225 RJs/ha by 2031.
- The 2006 Growth Plan required that the Downtown Kitchener Urban Growth Centre be planned to achieve a minimum density of 200 RJs/ha by 2031. The City's Official Plan set this target at 225 RJs/ha by 2031. The present density is 212 RJs/ha. The UGC has now exceeded the provincial minimum target and, with additional intensification projects currently happening or proposed in the UGC, the City is well positioned to meet and likely exceed the Official Plan minimum density target before 2031. To the best of staff's knowledge, none of the 19 other UGCs outside of the City of Toronto have achieved their 2031 Provincial minimum density targets.
- The City's current intensification level of 67% and 5-year average intensification level of 56% exceed the Regional intensification target (45%).
- The density in the MTSA already exceeds the Growth Plan minimum density target of 160 residents and jobs per hectare.
- Given the additional opportunities for redevelopment, based on existing zoning, there is capacity and potential to achieve higher densities within Kitchener's Intensification Areas.
- The City has an existing supply/capacity of developable land within the Built-Up Urban Area and Designated Greenfield Area that can accommodate more residents and jobs than the 2031 population and employment allocation from the Region.
- At such time as the Region of Waterloo amends their Plan to identify any different/further allocation of the forecasts for Kitchener, an update to the growth management assessment and the Kitchener Official Plan may be required.

3. Land Use Planning Analysis

3.1 *Provincial Land Use Planning Policy*

3.1.1 *Planning Act*

3.1.1.1 Provincial Interest

Section 2 of the Planning Act provides 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 including those identified in this section of the Act. I have considered these matters of interest in completing my land use planning analysis and forming my expert land use planning opinion with respect to the development proposal and requested Official Plan and Zoning By-Law Amendments. It is my opinion that these applications do not have appropriate regard for the following specific matters of provincial interest:

- (d) the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;
- (n) the resolution of planning conflicts involving public and private interests;
- (p) the appropriate location of growth and development;
- (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.

My opinion is based on the following:

- While the subject property is appropriate for development and intensification relative to existing conditions, particularly given its location in the MTSA, the proposal represents over-development that is not sensitive to its context and compatible with surrounding land uses and built form, including the height, density, massing and spatial configuration of existing structures in the Heritage Conservation District;
- The subject property has been purposely included in a Heritage Conservation District and excluded from the Downtown Urban Growth Centre in order to ensure that the unique built form and land use character is preserved and protected;
- The proposed development seeks to amend existing Official Plan policies to exceed the maximum density adopted to facilitate appropriate intensification and transit-oriented development through the growth targets established under the Growth Plan and the Region of Waterloo Official Plan;

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- As outlined in more detail in this report, the 2021 Annual Monitoring Report of the City's Growth Management Strategy confirms that development of the subject property beyond the currently permitted density is not required to achieve the growth targets for the City of Kitchener set by the Region of Waterloo; this report indicates that intensification across the City, in the Urban Growth Centre and in the MTSA are already exceeding the targets set to be achieved by 2031;
- Transit-oriented development is intended to achieve intensification and complete communities with consideration for the existing built form context, as opposed to indiscriminately pursuing maximum intensification with no limits on height and density to balance growth with compatibility;
- The Official Plan (through the Civic Centre Secondary Plan) controls development density and intensity through establishing a cap on the Floor Space Ratio, as opposed to building height (in this case, the proposed building footprint would reach the maximum FSR of 4.0 at approximately 30 metres of height); the proposed development seeks significant modifications to the permitted FSR in conjunction with height that is significantly greater than any other structure in the surrounding area, including the Downtown Urban Growth Centre, and reduced front and rear yard setbacks.

3.1.1.2 Provincial Policy Statement, 2020

The Provincial Policy Statement, 2020 (PPS 2020) is issued under the authority of section 3 of the Planning Act and came into effect on May 1, 2020. Section 3 of the Planning Act requires that decisions affecting planning matters "shall be consistent with" policy statements issued under the Act. Comments, submissions or advice that affect a planning matter that are provided by the council of a municipality, a local board, a planning board, a minister or ministry, board, commission or agency of the government "shall be consistent with" this Provincial Policy Statement.

Part I of PPS 2020 includes the following sections in the Preamble:

- The Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. The Provincial Policy Statement supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.
- Municipal official plans are the most important vehicle for implementation of this Provincial Policy Statement and for achieving comprehensive, integrated and long-term planning. Official plans shall identify provincial interests and set out appropriate land use designations and policies.

Section 1.1.3.3 indicates that "Planning authorities shall identify appropriate locations and promote opportunities for transit-supportive development, accommodating a significant supply and range of housing options through intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs."

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Similarly, Section 1.1.3.4 states that “Appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety.”

From the perspective of cultural heritage and archaeology, Section 2.6.1 indicates that “significant built heritage resources and significant cultural heritage landscapes shall be conserved”.

It is my opinion that the development proposal and requested Official Plan and Zoning By-Law Amendments are not consistent with the applicable policies of PPS 2020. While the Subject Property is located within an existing Settlement Area, the Region and City have established intensification areas and corridors in their respective Official Plans while also establishing policies to ensure that character and quality of communities inside and outside of these intensification areas are maintained and protected. The proposal includes significant growth and intensification through high-rise development in a low-rise community and does not take into account the character of the existing land use and building stock. The proposal also seeks to nearly double that maximum density permitted on the Subject Property under the current Official Plan when the City’s current monitoring indicates that the 2031 growth and intensification targets in the Downtown Urban Growth Centre, MTSA and the City in general are already being met.

3.1.2 A Place to Grow – Growth Plan for the Greater Golden Horseshoe, 2020

The Growth Plan for the Greater Golden Horseshoe 2019 was prepared and approved under the Places to Grow Act, 2005 to take effect on May 16, 2019. Amendment 1 (2020) to the Growth Plan for the Greater Golden Horseshoe 2019 was approved by the Lieutenant Governor in Council, Order in Council No 1244/2020 to take effect on August 28, 2020. As set out in Section 1.2.2 of this Plan, all decisions in respect of the exercise of any authority that affects a planning matter will conform with this Plan, subject to any legislative or regulatory provisions providing otherwise.

Among the Guiding Principles set out in Section 1.2.1 are the following:

- Support the achievement of complete communities that are designed to support healthy and active living and meet people’s needs for daily living throughout an entire lifetime;
- Prioritize intensification and higher densities in strategic growth areas to make efficient use of land and infrastructure and support transit viability;
- Support a range and mix of housing options, including additional residential units and affordable housing, to serve all sizes, incomes, and ages of household;
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH; and
- Conserve and promote cultural heritage resources to support the social, economic, and cultural well-being of all communities, including First Nations and Métis communities.

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Section 2.2.2.3 indicates that in Delineated Built-up Areas, “All municipalities will develop a strategy to achieve the minimum intensification target and intensification throughout delineated built-up areas, which will:

- a) identify strategic growth areas to support achievement of the intensification target and recognize them as a key focus for development;
- b) identify the appropriate type and scale of development in strategic growth areas and transition of built form to adjacent areas;
- c) encourage intensification generally throughout the delineated builtup area;
- d) ensure lands are zoned and development is designed in a manner that supports the achievement of complete communities;
- e) prioritize planning and investment in infrastructure and public service facilities that will support intensification; and
- f) be implemented through official plan policies and designations, updated zoning and other supporting documents.

It is my opinion that the development proposal and requested amendments do not conform to these sections of the Growth Plan. While the Subject Property is located in the delineated built-up area and MTSA, the property has been specifically excluded from the Downtown Urban Growth Centre, which has been identified as the priority for intensification. According to the 2021 Annual Monitoring Report of the Kitchener Growth Management Strategy, the Downtown Urban Growth Centre has an existing density of 212 residents and jobs per hectare (RJs/ha), which already exceeds the provincially mandated target of 200 RJs/ha by 2031, and is approaching the City’s Official Plan minimum target of 225 RJs/ha by 2031. Moreover, the City’s current intensification level of 67% and 5-year average intensification level of 56% exceed the Regional intensification target (45%) and the MTSA already exceeds the Growth Plan minimum density target of 160 residents and jobs per hectare.

Given that the City of Kitchener is already meeting or exceeding its 2031 growth and intensification targets, the requested amendments to the existing Official Plan and Zoning By-Law designations on the subject property are not required to meet the Growth Plan targets and does not represent an appropriate type and scale of development.

3.2 Municipal Land Use Planning Policy

3.2.1 Region of Waterloo Official Plan

The Region of Waterloo Official Plan establishes the land use planning framework for its lower tier municipalities, including growth targets to achieve the overall targets set out in the Growth Plan. The Regional Official Plan is required to be consistent with PPS 2020 and to conform to the Growth Plan and, consequently, implement the Provincial land use planning policy framework.

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Paragraph 3 of Section 2.B (Planned Community Structure) indicates that “Virtually all of the region’s future growth will occur within the Urban Area and Township Urban Area designations, with a substantial portion of this growth directed to the existing Built-Up Area of the region through reurbanization. Focal points for reurbanization include Urban Growth Centres, Township Urban Growth Centres, Major Transit Station Areas, Reurbanization Corridors and Major Local Nodes. These focal points will make better use of existing urbanized land and infrastructure and reduce development pressure on farmlands and sensitive natural areas.” Since the subject property is located within a designated MTSA, but outside of the Urban Growth Centre, the property is an appropriate location to accommodate growth through reurbanization.

However, Paragraph 4 of Section 2.B provides the following: “Most of the Built-Up Area consists of established residential neighbourhoods where the majority of buildings are not expected to change significantly in use or form during the planning horizon of this Plan. These neighbourhoods vary in age and style and contribute to the region’s vitality and quality of life. Any future development within or adjacent to these neighbourhoods will need to respect the existing physical character of the area.” This section expresses the Region’s policy intent to ensure that intensification of the built-up area to achieve its growth targets will respect the existing physical character of the area in which any development proposal is located.

Section 2.D outlines the Urban Area Development Policies of the Official Plan, including the following:

- 2.D.1 (General Development Policies): 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:
 - (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;
 - (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;
- 2.D.3 (Urban Growth Centres): Urban Growth Centres are designated as shown conceptually on Map 3a. This designation identifies the region’s primary business, civic, commercial and cultural centres that will be planned and developed:
 - (a) to accommodate a significant share of the region’s future population and employment growth;

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(e) to achieve, by 2029 or earlier, a minimum gross density of 200 residents and jobs combined per hectare for each of the Downtown Kitchener and Uptown Waterloo Urban Growth Centres, and 150 residents and jobs combined per hectare for the Downtown Cambridge Urban Growth Centre.

- 2.D.8 Area Municipalities will designate Major Transit Station Areas and establish associated policies for these areas in their official plans in conformity with the policies in this Plan. Following the completion of a Station Area Plan required under Policy 2.D.7, Area Municipalities will establish additional policies, as required, to incorporate the minimum density requirements, the land use mix and other key elements of the Station Area Plan into their official plans.

It is clear that the subject property is located in an MTSA and intended for transit-oriented development to achieve the growth and intensification objectives of the Official Plan. The City of Kitchener has established Official Plan policies for the MTSA and the subject property that are intended to achieve the Region's growth targets, particularly a maximum Floor Space Ratio of 4.0 times the lot area. These policies have also been adopted to facilitate land use and built form that respects the scale, physical character and context of this community.

The 2021 Annual Monitoring Report of the Kitchener Growth Management Study has confirmed that the City is meeting or exceeding its 2031 growth and intensification targets across the City, as well as in the MTSA and in the Urban Growth Centre. Therefore, it is my opinion that it is not necessary for the current Official Plan and Zoning By-Law regulations to be amended to permit greater residential density and land use intensity in order to achieve the growth and intensification objectives, and overall policy intent, of the Regional Official Plan.

3.2.2 *City of Kitchener Official Plan*

3.2.2.1 Policy Overview

Urban Structure

Section 3.C.2 includes the Urban Structure Components that provide guidance on growth management and structure for the City's Urban Area, including the following objectives:

- 3.2.3. To establish a hierarchy of Intensification Areas in which to direct and accommodate population and employment growth and provide for intensification of varying magnitudes and range of uses.
- 3.2.5. To maintain a compatible interface between Intensification Areas and surrounding areas and achieve an appropriate transition of built form.

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The subject property is located in the Major Transit Station Area, directly abutting the Downtown Urban Growth Centre. The Urban Structure policies for the Urban Growth Centre include the following:

- 3.C.2.12. The Urban Growth Centre (Downtown) is the primary Urban Structure Component and Intensification Area. The planned function of the Urban Growth Centre is to accommodate a significant share of the region's and city's future population and employment growth.
- 3.C.2.13. The Urban Growth Centre (Downtown) is planned to achieve, by 2031 or earlier, a minimum density of 225 residents and jobs combined per hectare and assist in achieving the minimum residential intensification target identified in Policy 3.C.1.6.
- 3.C.2.14. The Urban Growth Centre (Downtown) is planned to be a vibrant regional and city-wide focal point and destination and is intended to be the city's primary focal point for residential intensification as well as for investment in institutional and region-wide public services, commercial, office, recreational, cultural and entertainment uses.

These policies clearly identify the Urban Growth Centre as the top priority among the Primary Intensification Areas identified in the Official Plan. Major Transit Station Areas are also Primary Intensification Areas. As outlined in section 3.C.2.17, "the planned function of Major Transit Station Areas, in order to support transit and rapid transit, is to:

- a) provide a focus for accommodating growth through development to support existing and planned transit and rapid transit service levels;
- b) provide connectivity of various modes of transportation to the transit system;
- c) achieve a mix of residential, office (including major office), institutional (including major institutional) and commercial development (including retail commercial centres), wherever appropriate; and
- d) have streetscapes and a built form that is pedestrian-friendly and transit-oriented.

Housing

Section 4 of the City's Official Plan focuses on Housing, including the following objectives:

- 4.1.3. To ensure that new residential areas and the redevelopment of lands for residential uses and residential infill projects reflect a high standard of urban design.
- 4.1.5. To encourage and support the retention and rehabilitation of older housing or the reconstruction of existing housing to maintain the housing stock and the stability and community character of established residential neighbourhoods.

Policy 4.C.1.3. indicates that "the majority of new residential growth in the Built-Up Area will occur within Intensification Areas in accordance with Policies 3.C.1.4 through 3.C.1.12 inclusive". However, policy 4.C.1.7 requires the following: "The City may require a site plan, elevation drawings, landscaping plans and any other

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appropriate plans and/or studies, to support and demonstrate that a proposed development or redevelopment is compatible with respect to built form, architectural design, landscaping, screening and/or buffering. These requirements are intended to address the relationship to adjacent residential development, to ensure compatibility with the existing built form and the community character of the established neighbourhood and to minimize adverse impacts.”

Policy 4.C.1.8. requires that “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:

- a) Any new buildings and any additions and/or modifications to existing buildings are appropriate in massing and scale and are compatible with the built form and the community character of the established neighbourhood.
- b) Where front yard setback reductions are proposed for new buildings in established neighbourhoods, the requested front yard setback should be similar to adjacent properties and supports and maintain the character of the streetscape and the neighbourhood.
- c) New additions and modifications to existing buildings are to be directed to the rear yard and are to be discouraged in the front yard and side yard abutting a street, except where it can be demonstrated that the addition and/or modification is compatible in scale, massing, design and character of adjacent properties and is in keeping with the character of the streetscape.
- d) New buildings, additions, modifications and conversions are sensitive to the exterior areas of adjacent properties and that the appropriate screening and/or buffering is provided to mitigate any adverse impacts, particularly with respect to privacy.
- 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.
- f) The impact of each special zoning regulation or variance will be reviewed prior to formulating a recommendation to ensure that a deficiency in the one zoning requirement does not compromise the site in achieving objectives of compatible and appropriate site and neighbourhood design and does not create further zoning deficiencies.

In addition, policy 4.C.1.9. requires that “residential intensification and/or redevelopment within existing neighbourhoods will be designed to respect existing character. A high degree of sensitivity to surrounding context is important in considering compatibility.”

In seeking Variety and Integration of housing across the City, policy 4.C.1.13 indicates that “the City will work with the development industry and other community members to identify and encourage innovative housing types and designs in the city where such innovation would:

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- a) be compatible with surrounding land uses;
- b) support the development of complete communities;
- c) provide live/work and home occupation opportunities;
- d) incorporate energy conservation features and the use of alternative energy systems and/or renewable energy systems;
- e) reduce municipal expenditures;
- f) protect natural heritage features;
- g) provide accessible and affordable housing to residents;
- h) conserve and/or enhance our cultural heritage resources;
- i) celebrate the cultural diversity of the community;
- j) be transit-supportive and/or transit-oriented; or,
- k) reflect, add and/or enhance architectural interest and character.

Urban Design

Section 11 of the Official Plan relates to Urban Design. Among the specific urban design objectives in this section are the following:

- 11.1.2. To create visually distinctive and identifiable places, structures and spaces that contribute to a strong sense of place and community pride, a distinct character and community focal points.
- 11.1.3. To create a built environment of human scale that respects and enhances cultural heritage resources, natural heritage features, community character and streetscape.
- 11.1.4. To design individual site elements, buildings, structures and spaces to have mutually supportive relationships with one another and with the overall urban fabric and interrelated networks and systems.
- 11.1.5. To minimize and mitigate potential adverse impacts of development and infrastructure works on surrounding land uses, the built and natural environments, the integrated transportation system and infrastructure through careful design considerations and solutions.

As outlined in policy 11.C.1.4, the policies in this Section “will be used to evaluate matters such as, but not limited to:

- a) patterns of movement and the physical and social connections that exist between people and places;
- b) the interrelationship between built and unbuilt spaces that comprise both the public realm and private developments;
- c) the protection and integration of the natural environment and cultural heritage resources; and,
- d) potential adverse impacts to the urban fabric, the community and infrastructure.

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Policy 11.C.1.28 identifies the Urban Design Manual as providing design direction with respect to character, built form and amenities in both typologies of neighbourhoods. In the Central Neighbourhoods, including where the subject property is located, the City's primary focus will be to ensure that new infill development is compatible with the existing neighbourhood.

In terms of building design, massing and scale, 11.C.1.33 encourages the following:

- a) provision of attractive building forms, façades and roof designs which are compatible with surrounding buildings;
- b) infill development to complement existing buildings and contribute to neighbourhood character, particularly if located within close proximity of a recognized cultural heritage resource or Heritage Conservation District;
- c) minimization of adverse impacts on site, onto adjacent properties (particularly where sites are adjacent to sensitive land uses) and into the public realm through building design;
- d) individual architectural innovation and expression that reinforces and positively contributes to achieving the City's urban design goals and objectives; and,
- e) the highest standard of building design for buildings located at priority locations, with particular emphasis on architectural detailing for all façades addressing the public realm.

Civic Centre Secondary Plan

As stated in the preamble to Section 17.E.6, "Secondary plans are used to provide more detailed direction pertaining to growth and development in specific areas of the city, indicating the manner in which the goals, objectives, policies and land use designations of the Official Plan will be implemented within respective areas." On this basis, the policies of a Secondary Plan provide more detailed direction to guide growth and development than the more general policies of other sections of the Official Plan.

Part 3, Section 13 contains the Secondary Plan policies. The introduction to this section confirms the following:

"Secondary Plans are detailed neighbourhood scale Plans. They are prepared because the general policies directing City-wide growth and development are not detailed enough to address specific issues in an individual neighbourhood. This is particularly true for older neighbourhoods of the City where redevelopment of the existing built environment creates somewhat different issues than those associated with newer areas."

The subject property is located in the Civic Centre Secondary Plan Area and is designated "High Density Commercial Residential". While the properties to the east and west share this designation, the properties backing onto the subject property are designated "Office Residential Conversion".

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Section 13.1.2.8 relates to the “High Density Residential Commercial” designation and establishes the following: “The aim of this designation is to recognize the proximity of the Civic Centre Neighbourhood to the higher intensity land uses of the Downtown, and the location of the properties on Primary Roads. This area also defines the boundary of Settlement Policy Area “B” contained in the Regional Official Policies Plan, which provides for higher intensity uses adjacent to the Downtown”.

Section 13.1.2.8 also provides the following: “The permitted land uses include multiple dwellings which may exceed a density of 200 units per hectare, private home day care, lodging houses, small and large residential care facilities, and home businesses. Commercial uses are restricted to offices, office support services, health offices, health clinics, club facilities, day care facilities, religious institutions, medical laboratories, funeral homes, financial establishments, educational establishments, tourist homes, studios, parks, a limited amount of personal services and small convenience retail. Commercial and residential uses may be within separate buildings or may mix within the same building. Personal services and small convenience retail uses must be internal to a large residential, office or mixed use development. The maximum floor space ratio shall be 4.0, meaning the above grade building floor area shall not exceed 4.0 times the lot area”.

Section 13.1.2.6 identifies the aim of the “Office Residential Commercial” designation as “both to preserve the existing structures in these areas and to serve as a transition area between the higher intensity uses along Weber Street and Queen Street and the Low Rise Residential - Preservation designation of the interior of the neighbourhood”. On this basis, the low-rise built form character of the properties along Roy Street will remain even if residential uses are converted to commercial.

3.2.2.2 Analysis of Development Proposal and Development Applications

It is my opinion that the development proposal and development applications do not conform to the City of Kitchener Official Plan on the following basis:

- The proposed height of 19 storeys and floor area nearly double the maximum permitted, in conjunction with a rear yard setback of approximately one-half the minimum required under the prevailing zoning regulations, do not provide an appropriate transition to the low-rise structures backing onto the subject property on Roy Street;
- The proposed building height and massing is out of character with the existing structures on all sides of the subject property, including the lands to the south located in the Downtown Urban Growth Centre; inadequate stepbacks, articulation and other architectural treatments have been incorporated to mitigate the impact of this height and massing to the community character;
- The proposed front yard setback is significantly less than the minimum zoning requirement and existing structures in the surrounding community, which will disrupt the built form character of the community and its relationship to the street and public realm;
- The subject property is located outside of the Downtown Urban Growth Centre and new development should respect the maximum floor space ratio policy of the Official Plan and prevailing zoning

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regulations that have been adopted to achieve the growth targets of the Region of Waterloo Official Plan while seeking compatibility among different land uses;

- The proposed density and built form massing are significantly greater than the policies of the Official Plan without this additional density being required to achieve the City's 2031 growth targets; and
- The subject property is located within the Civic Centre Secondary Plan Area, which has been specifically established separately from the Downtown Urban Growth Centre, to provide more detailed policies and guidelines for development in this area; while the Secondary Plan recognizes the close proximity of this area to the Urban Growth Centre and the importance of this area to accommodate growth and development, a Floor Space Ratio of 4.0 times lot area has been intentionally established to control floor area and density.

3.2.3 *City of Kitchener Zoning By-Law 85-1*

The purpose and intent of the Zoning By-Law is to implement the policies of the City of Kitchener Official Plan. While the prevailing Zoning By-Law was adopted prior to the current Official Plan, it is my opinion that the site-specific regulations requested through the proposed Zoning By-Law Amendment will not effectively implement the Official Plan as the result will be a building density, massing and site configuration that does not respect the character of the surrounding community and adjacent land uses and does not provide appropriate transition and interface to surrounding low-rise structures.

The proposed floor space ratio of 7.8 times the lot area is nearly double the 4.0 permitted under the prevailing zoning regulation and established under the Official Plan policies for the Civic Centre Secondary Plan Area. The impact of this proposed increase in density will be exacerbated by the proposed reduction to the rear yard setback, which is intentionally related to the proposed height, in order to provide for appropriate transition to the low-rise structures on Roy Street. The proposed front yard setback of 0.8 metres is significantly less than the 3-metre minimum requirement and will disrupt the existing prevailing character of front yard setbacks in the surrounding community, which are typically greater than the 3-metre minimum.

3.2.4 *Civic Centre Neighbourhood Heritage Conservation District Plan*

As noted in Section 1.2 of the Civic Centre Neighbourhood Heritage Conservation District Plan, the Plan was prepared with the intent of assisting in the protection and conservation of the unique heritage attributes and character of the Civic Centre Neighbourhood.

Section 3.0 includes the Heritage District objectives, principles and policies. These include the following Land Use policies intended to achieve the goal of maintaining the low-density residential character of the Civic Centre Neighbourhood Heritage Conservation District as the predominant land use, while recognizing that certain areas of the District already have or are intended for a wider range of uses:

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- Ensuring that appropriate Official Plan policies, designations and zoning regulations are in effect that support the residential community;
- Establishing policies that will consider and mitigate the potential impacts of non-residential or higher intensity residential uses on the heritage character of low-density residential areas;
- Developing area or site-specific policies and guidelines for those areas intended for non-residential or higher intensity residential uses that will protect key heritage attributes, while allowing greater latitude for potential alterations or redevelopment;
- Ensuring that infill development or redevelopment is compatible with the heritage character and pedestrian scale of the District.

Section 3.3.1 includes policies for development pattern and land use in order to maintain the general consistency of the land uses and development pattern in the District. These policies include the following: (a) Maintain the residential amenity and human scale of the Civic Centre Neighbourhood by ensuring that the low density residential land use character remains dominant.

Section 3.3.3 (a) relates to New Buildings and indicates that “New buildings will respect and be compatible with the heritage character of the Civic Centre Neighbourhood, through attention to height, built form, setback, massing, material and other architectural elements such as doors, windows, roof lines.”

Section 3.3.5 includes site/area specific policies, including the Weber Street area (section 3.3.5.2). The following policies are particularly relevant:

- (b) Maintain residential streetscape character through the use of appropriate built form, materials, roof pitches, architectural design and details particularly at the interface between Weber Street and the interior of the neighbourhood;
- (d) Where redevelopment is proposed on vacant or underutilized sites, new development shall be sensitive to and compatible with adjacent heritage resources on the street with respect to height, massing, built form and materials.

It is my opinion that the proposed density, front and rear yard setbacks, combined with massing that incorporates no stepbacks in the 19-storey building height, do not respect the existing land use and built form character of the neighbourhood. The density established through the maximum floor space ratio of 4.0 times the lot area should be maintained as this is consistent with the Official Plan policies established to achieve the Regional growth and intensification objectives. While the prevailing zoning regulations pre-date the current Official Plan, the minimum rear yard setback facilitates transition from the Weber Street corridor to the interior of the neighbourhood and helps to mitigate the impact of height to neighbouring properties. Moreover, the minimum front yard setback will actually allow the proposed dwelling to be constructed closer to the street than other buildings in the neighbourhood without requiring any reduction to this regulation. On this basis, it is appropriate the existing zoning regulations be maintained.

3.2.5 City of Kitchener Urban Design Manual

The importance of built form massing and density that respects existing neighbourhood character and provides appropriate transition to adjacent properties is reiterated in the City of Kitchener Urban Design Manual. The following policies are particularly relevant, specifically as they relate to respect for existing neighbourhood character, compatibility with adjacent land uses and transition to areas and properties of lower density and built form massing.

City-Wide Guidelines

Part A of the Urban Design Manual includes guidelines that apply city-wide. Section 1.2.7 includes the following design considerations for compatibility through scale and transition:

- Provide transitions in mass, height and density between areas of different scales and densities in order to mitigate potential impacts and preserve compatibility.
- Stepback the upper floors of taller buildings to create a human-scaled public realm, provide access to sunlight and create adequate separation.

In terms of new development in existing neighbourhoods:

- Design infill buildings at a compatible scale with existing and planned surroundings. New buildings should respect planned and established heights and setbacks in the neighbourhood.
- Ensure compatibility by providing appropriate building mass, design features and materials.
- Use materials that are compatible with those found in the existing neighbourhood and maintain the rhythm of existing building separations and other spatial relationships.

Section 1.3.1 provides the following guidelines for built form massing:

- Design massing to conserve and enhance local contextual conditions, including significant buildings, open spaces, civic resources and pedestrian safety and comfort.
- Concentrate height and mass where it creates the best public realm opportunities and the fewest unwanted impacts on surroundings

Major Transit Station Areas

Part A of the Urban Design Manual includes guidelines for Major Transit Station Areas. Section 2.2.6 addresses Compatibility through scale and transition. This section includes the following:

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- Higher density development adjacent to established neighbourhood areas is to provide a suitable transition in scale, massing, building height, building length and intensity through setbacks, stepbacks, landscaping and compatible architectural design/material selection.

In terms of massing, section 2.3.1 includes the following guideline: “Provide stepbacks for upper levels in mid-rise and tall buildings to mitigate impacts and create street-facing shared amenity spaces. Ensure all building forms meet the guidelines in their associated sections of the manual.”

Design for Tall Buildings

Part B of the Urban Design Manual includes guidelines for the design of tall buildings, which includes buildings 9 storeys and higher. These guidelines include the following considerations for scale and transition:

- Complement adjacent built form through compatible height, scale, massing, and materials.
- Sensitively transition to surrounding urban contexts, accounting for both the existing context and the planned vision for an area.
- Implement Setbacks (from property lines) and Stepbacks (from the edge of the base to upper-level base storeys, the tower, and top features).
- Tall buildings should not interrupt or impose upon an existing or planned neighbourhood character or the public realm.
- Where the nature, size, shape or context of a parcel makes achieving good separation and compatibility impractical or impossible, that site may not be suitable for a tall building.

These guidelines also include the following design considerations for heritage:

- Locate and design tall buildings to respect and complement the scale, character, form and siting of on-site and surrounding cultural heritage resources.
- When a tall building is adjacent to a built heritage resource:
 - Design the Base to respect the scale, setbacks, stepbacks, proportions, visual relationship, topography, and materials specific to built heritage resources;
 - Integrate the existing heritage character into the Base through high-quality, contemporary design cues;
 - Provide additional tall building setbacks, stepbacks and other appropriate Placement or design measures to respect the heritage setting and to protect or enhance view corridors

4. Conclusions

As outlined in this report, it is my opinion that the development proposal and requested amendments to the City of Kitchener Official Plan and Zoning By-Law:

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- Do not have appropriate regard for the matters of Provincial interest set out under Section 2 of the Planning Act;
- Are not consistent with the applicable policies of the Provincial Policy Statement, 2020;
- Do not conform to the applicable policies of the Growth Plan for the Greater Golden Horseshoe;
- Do not conform to the Region of Waterloo Official Plan and are not required to achieve the growth targets set out in this Plan;
- Do not conform to the policy intent of the City of Kitchener Official Plan, specifically to implement and achieve the growth targets and objectives of the Regional Official Plan.

Regards,



Michael Barton, MCIP, RPP
President

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