

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: June 16, 2021

CASE NO(S): PL180420

The Ontario Municipal Board (the “OMB”) and the Local Planning Appeal Tribunal (the “LPAT”) is continued under the name Ontario Land Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board or Local Planning Appeal Tribunal in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Centre Ice Developments GP Corp.
Subject: Request to amend the Official Plan - Failure of the City of Kitchener to adopt the requested amendment

Existing Designation: City Urban Area
Proposed Designated: City Urban Area
Purpose: To permit the development of 4-towers
Property Address/Description: 607-641 King Street West
Municipality: City of Kitchener
Approval Authority File No.: 17/002/K/JVW
LPAT Case No.: PL180420
LPAT File No.: PL180420
LPAT Case Name: 607 King General Partnership v. Waterloo (Region)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Centre Ice Developments GP Corp.
Subject: Application to amend Zoning By-law No. 85-1 - Refusal or neglect of the City of Kitchener to make a decision

Existing Zoning: High Intensity Mixed Use Corridor (MU-3)
Proposed Zoning: Site Specific (To be determined)
Purpose: To permit the development of 4-towers

Property Address/Description: 607-641 King Street West
 Municipality: City of Kitchener
 Municipality File No.: 17/002/K/JVW
 LPAT Case No.: PL180420
 LPAT File No.: PL180421

Heard: May 26th, 2021 by video hearing

APPEARANCES:

<u>Parties</u>	<u>Counsel*/Representative</u>
607 King General Partnership	Mullin, K.
City of Kitchener	MacDonald, L.
Region of Waterloo	McCrea, F.

MEMORANDUM OF ORAL DECISION DELIVERED BY N.P. ROBINSON ON JUNE 11, 2021 AND ORDER OF THE TRIBUNAL

PART I — OVERVIEW

[1] These appeals relate to the failure of a municipal council to make a decision on applications for an Official Plan Amendment (“OPA”) and Zoning By-law Amendment (“ZBA”) by Centre Ice Developments GP Corp. (“Centre Ice”) for lands described as 607-641 King Street West, in the City of Kitchener (the “Subject Lands”). The proposed development is referred to as the Station Park development.

[2] The within matter was set for a Case Management Conference but the parties instead presented the Tribunal with a settlement. The Tribunal received no party or participant requests for the within matter.

[3] Station Park is a master planned, high-density, mixed-use development located adjacent to the City of Kitchener’s (the “City”) Urban Growth Centre along a Mixed-Use Corridor and within a Major Transit Station Area (“MTSA”).

[4] The OPA and ZBA proposed for Station Park are consistent with the policies of the Provincial Planning Statement, 2020 (“PPS”) which encourage intensification and efficient use of land and conform with the policies of the Growth Plan for the Greater Golden Horseshoe, 2020 (“Growth Plan”) which prioritize intensification within MTSAs and the development of complete communities. The OPA and ZBA proposed also conform with the policies of the Region of Waterloo Official Plan (“ROP”) and the 1994 City of Kitchener Official Plan (“1994 Official Plan”) and the 2014 City of Kitchener Official Plan (“2014 Official Plan”).

PART II — FACTS

[5] The Subject Lands are located along King Street West and are situated immediately adjacent to the City Urban Growth Centre. The Subject Lands are presently developed with a number of commercial buildings. Phase 1 of the Station Park development, which is comprised of two residential towers, is currently under construction.

[6] Access to the Subject Lands is provided from King Street West and Wellington Street South. Following completion of the Station Park development, access will continue to be provided from both surrounding streets with the primary access being from King Street West.

[7] King Street West is a Regional Road and a transit corridor. The Region of Waterloo LRT route (“ION”) runs along King Street West adjacent the Subject Lands. The Central Station ION stop is located less than 100 metres from the Subject Lands.

[8] The Subject Lands are located within a mixed-use area primarily comprised of office, commercial, institutional and residential uses. This includes commercial uses and Google offices on the north side of King Street West (across from the Subject Lands), The University of Waterloo School of Pharmacy to the east (on the opposite side of the railway tracks), Ontario Seed Co. Limited to the south and commercial and

multiple residential uses along Wellington Street South to the west. The Region of Waterloo multi-modal transit hub is also planned within the immediate surrounding area and will be located a short distance northeast of the Subject Lands.

[9] The Subject Lands are located within the K-W Hospital Secondary Plan Area Station Park Development. Station Park is a master planned high-density mixed-use development. As part of the Subject Lands' redevelopment, the existing listed property addressed as 621 King Street West (the Kaufman House, formerly the Ratz Bechtel Funeral Home) will be conserved and integrated into the development so as to ensure the long-term protection of this significant cultural heritage resource. In addition, the Subject Lands will contain a mix of office, commercial, retail (including the potential for a grocery store), Privately-owned Publicly Accessible Spaces ("POPS"), as well as a variety of residential housing options.

[10] The proposed Station Park development includes the following key elements:

- (a) the intensification of an underutilized property within a MTSA;
- (b) the incorporation of a range and mix of uses including residential, retail, office, and recreation to create a dynamic and high-quality development;
- (c) the preservation and conservation of the Kaufman House;
- (d) the development of well designed, safe and inviting public streets and spaces throughout the site to meet the needs of pedestrians and to foster social interaction and community connectivity;
- (e) the establishment of a landmark development that will accommodate major employment and commercial uses to serve the surrounding neighbourhoods and maximize the significant investment made in public transit through the ION system;
- (f) the provision of community meeting space to serve local neighbourhood associations; and
- (g) the integration of an underground parking structure to accommodate the majority of parking along with loading and service areas in order to maximize the provision of urban amenity space at grade.

[11] Station Park includes 5 towers ranging in height from 18 storeys to 44 storeys, including two towers which have already been approved and are under construction as Phase 1. The Master Plan includes approximately 1,938 residential units, over 4,000 square metres of commercial space, more than 16,000 square metres of office space and a large central open space (POPS) measuring a minimum of 4,000 square metres.

The Applications

[12] The Subject Lands are designated “Mixed Use Corridor” in the K-W Hospital Secondary Plan (which forms part of the 1994 Official Plan).

[13] The following has occurred since the K-W Hospital Secondary Plan was approved:

- (a) The LRT has now been established and is fully operational and the MTSA's are now known. The Subject Lands are located along the existing LRT route and are within a defined MTSA.
- (b) The City's new Official Plan has been approved and identifies MTSA's as primary intensification areas within the City.
- (c) The location of the Region's Multi-Modal Transit hub is also known and is located opposite the Subject Lands on the north side of King Street West.
- (d) Provincial policy has continued to evolve and provincial plans released since the original Applications (i.e. the 2020 PPS and 2019 Growth Plan, as amended) continue to place greater emphasis on intensification and transit supportive development.
- (e) The Master Plan has evolved to provide more public space (including two outdoor POPS and an enlarged community room) and improved streetscapes along both King Street West and Wellington Street.

[14] An OPA is being sought to change the Official Plan Land Use Designation from “Mixed Use Corridor” to “Mixed Use Corridor with Special Policy Area 6” to add new site-specific policies in the K-W Hospital Secondary Plan to allow, in part, a maximum Floor Space Ratio (FSR) of 7.5 versus the maximum FSR of 4.0 currently permitted. The OPA will accommodate the high-density redevelopment of an underutilized site within a MTSA.

[15] A ZBA is being sought to amend Zoning By-law No. 85-1 (the “Parent By-law”) by establishing site specific regulations related to maximum density (FSR); the heritage building (Kaufman House); parking requirements; the calculation of FSR; increased permissions for maximum retail areas; provision of a crash wall or a combination berm and fence adjacent to the CN rail right-of-way; and holding provisions to ensure the completion of an assessment of the impact of transportation and stationary noise sources, including both on-and off-site noise sources.

[16] The proposed ZBA will also establish a maximum floor plate size of 850 square metres for a mixed-use building or residential towers within the development, as the floor plate size is closely tied to separation distances both on and offsite. This is a significant design consideration as the city intensifies and is intended to implement the City's Design for Tall Buildings Guidelines.

PART III – ISSUES AND PLANNING EVIDENCE

[17] Section 2 of the *Planning Act* requires the Tribunal to have regard to a number of matters of Provincial interest as set out in that section, including: (h) the orderly development of safe and healthy communities; (j) the adequate provision of a full range of housing; and (q) the promotion of sustainable, transit-oriented development.

[18] The *Planning Act* also sets out a number of tests to be applied to the proposed OPA and ZBA:

- (a) subsection 3(5) of the *Planning Act* requires the Tribunal's decision on the Applications to be consistent with the PPS and to conform with the Growth Plan;
- (b) section 27 requires the OPA to conform with the ROP; and
- (c) section 24 requires the ZBA to conform with the 2014 Official Plan and the 1994 Official Plan, as amended by the proposed OPA.

Planning Evidence

[19] Andrea Sinclair, who was qualified to give expert opinion evidence in the area of land use planning, provided evidence that the Applications:

- (a) have appropriately considered and addressed matters of Provincial interest in accordance with Section 2 of the *Planning Act*;
- (b) are consistent with the PPS framework to direct the efficient use of land, the coordination of land use with infrastructure and community service facilities, the protection of significant natural heritage features and water resources, and the achievement of density targets among other matters;
- (c) conform to the Growth Plan, which prioritizes intensification and higher densities in strategic growth areas to make efficient use of land and infrastructure and support transit viability. This includes policies in support of intensification within MTSAs;

- (d) conform to the ROP, being located within a designated Built Up Area and conforming to the policies in the ROP related to MTSAs, Transit Oriented Development, and Transportation; and
- (e) conform to the City of Kitchener 1994 Official Plan containing the K-W Hospital Secondary Plan and the 2014 Official Plan, being located within a Primary Intensification Area and supporting transit usage within a MTSA. The proposed development supports the energy conservation policies and supports the City's intentions to minimize energy consumption, can be serviced through connections to existing municipal water and sewage lines which will maximize the use of existing infrastructure, and minimizes contributions to air pollution through reduced reliance on private automobiles and will support the emerging ION rapid transit system. The intensification of the Subject Lands is in conformity with the Mixed-Use Corridor land use designation of the K-W Hospital Secondary Plan, which allows for intensive transit supportive development.

[20] The proposed ZBA includes appropriate regulations to address the retail and non-residential uses; parking requirements; the adjacent railway; minimum setbacks to the heritage (Kaufman) house; and building and tower design including minimum step backs to towers above the podium bases and maximum tower footprints.

[21] The proposed ZBA, including the proposed increase to FSR, is appropriate given the Subject Lands' location within a MTSA, adjacent the Urban Growth Centre and along a Mixed-Use Corridor. The ZBA also incorporates a holding provision for the completion of a detailed noise assessment for the Subject Lands for both stationary and traffic noise and the compatibility of these uses in proximity to residential uses.

[22] The proposed development fully implements Provincial, Regional and Local policy direction related to intensification within strategic growth areas, including within MTSAs.

[23] By allowing additional density at this prominent location, stable neighbourhoods will be protected from pressures to intensify. This approach will help implement the direction of the 2014 and 1994 Official Plans which directs intensification to certain areas along Mixed-Use Corridors such as this, or within the Urban Growth Centre, so as to protect the stable neighbourhoods from increased pressures to intensify.

[24] The Station Park proposal responds to comments received from the public through the planning process regarding a number of issues, including the following:

- (a) Unit Mix and Family Sized Dwellings: Phase 1 includes a range of unit sizes and types including studio, 1 bedroom, 2 bedroom and 3 bedroom units. Many of the units also include dens. The unit mix for future phases has not yet been determined however it is expected that a similar mix will be proposed. When designing Station Park, the desire was to cater to a variety of different needs and family types, so different products were considered for market. With typical condo developments, the majority of units are 1 and 2 bedrooms, predominantly because that is what is desired. In Phase 1, Centre Ice has provided for 2 and 3 bedroom townhouse units (mainly 3 bedroom units) at the base of the podium for Towers A and B which are currently under construction.
- (b) Tower Height, Wind and Shadow Impacts: The Master Plan was designed with the shortest buildings oriented along Wellington Street South. The tallest buildings are oriented along the railway. Wind and Shadow Studies were updated to reflect the current Station Park proposal and wind mitigation recommendations such as landscaping and wind screens will be implemented through site plan process. The proposed towers have been designed with compact footprints (850 sq m) to minimize shadow impact. Shadow studies demonstrated that the City shadow criteria is met. The City's Criteria requires 4-5 hours of sunlight in private rear yard amenity space.
- (c) Green Space: The proposed Master Plan includes a large central urban square. An additional park is provided at the eastern corner of the site. Both green spaces will be publicly accessible. Four season amenities including skating oval, outdoor theatre and outdoor work space are proposed within the POPS areas.
- (d) Trail Connections and Pedestrian Connectivity: The Master Plan provides better pedestrian connectivity across the site. This includes a publicly accessible pedestrian connection from the northwest corner of the site to the southeast corner of the site where pedestrians will be able to ultimately connect to the trail on the south side of the tracks via public sidewalks.

[25] The Tribunal is cognizant of the fact that the resolution jointly proposed by the parties has been the subject of extensive negotiations and is of the opinion that the settlement addresses all planning issues as described above.

[26] **THE TRIBUNAL** allows the appeal for the foregoing reasons.

[27] **THE TRIBUNAL ORDERS** that the Official Plan and Zoning By-law Amendments attached as Attachments 1 and 2 to this Order are approved and the K-W Hospital Secondary Plan Area and Zoning By-law No. 85-1 are amended accordingly.

[28] The Tribunal so Orders.

"N.P. Robinson"

N.P. ROBINSON
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal.

**AMENDMENT NO. TO THE OFFICIAL PLAN
OF THE CITY OF KITCHENER**

**CITY OF KITCHENER
607-641 King Street West**

**AMENDMENT NO. TO THE OFFICIAL PLAN
OF THE CITY OF KITCHENER
607-641 King Street West**

INDEX

SECTION 1	TITLE AND COMPONENTS
SECTION 2	PURPOSE OF THE AMENDMENT
SECTION 3	BASIS OF THE AMENDMENT
SECTION 4	THE AMENDMENT

AMENDMENT NO. TO THE OFFICIAL PLAN
OF THE CITY OF KITCHENER

SECTION 1 – TITLE AND COMPONENTS

This amendment shall be referred to as Amendment No. XX to the Official Plan of the City of Kitchener. This amendment is comprised of Sections 1 to 4 inclusive and Schedule 'A'.

SECTION 2 – PURPOSE OF THE AMENDMENT

The purpose of this amendment is to add a Special Policy to the 1994 Official Plan to increase the maximum permitted density on the subject lands and to require the completion of a Master Plan prior to development proceeding.

SECTION 3 – BASIS OF THE AMENDMENT

The subject lands are located at 607-641 King Street West. The subject lands are designated Mixed Use Corridor in the K-W Hospital Secondary Plan, which forms part of the 1994 Official Plan. The Mixed Use Corridor designation in the K-W Hospital Secondary Plan encourages higher density, mixed use development and redevelopment. The subject lands are also located within a Major Transit Station Area (MTSA) which is considered a primary intensification area.

An Official Plan Amendment is required to add a Special Policy to permit a maximum Floor Space Ratio (FSR) of 7.5 and the completion of a Master Plan for the site in order to ensure that the site will be comprehensively planned prior to any development occurring on the lands.

As the subject lands are also located within the Mixed Use Corridor of the K-W Hospital Secondary Plan, an amendment is also necessary to increase the amount of retail permitted on the subject lands. Currently there is a cap of 1,000 square metres for retail within the Mixed Use Corridor. This has been increased to 10,000 square metres in order to permit the range and scale of retail uses proposed with this development, including a food store. This will bring this site into conformity with the Regional Official Plan as well as the City of Kitchener Official Plan which directs Commercial Retail Centres to Major Transit Station Areas.

The subject lands are located within 100 metres of the Kitchener Central LRT Stop and (the King-Victoria Transit Hub) and are identified in the 2014 Official Plan as being within a Major Transit Station Area (MTSA). The proposed development includes a high intensity mixed use development comprised of residential uses, with office and commercial uses all at a density to support both transit and active transportation. The

site will include a variety of transportation demand management measures in order to encourage the use of alternative modes of transportation including public transit.

The proposed development will implement the vision as set out in the Official Plan for lands within a MTSA as being a compact, dense and transit supportive site. The subject lands are strategically located at the edge of the Urban Growth Centre, within a Mixed Use Corridor and within the MTSA for the main Transit Hub site that acts as a gateway to the City's downtown core. Its prominent location makes it ideal for the density proposed.

The maximum floor space ratio, building height, tower floor plate size and setbacks for all buildings, as well as on-site parking will be regulated in the site specific amending zoning by-law to ensure urban design elements are implemented. In order to ensure that the site is comprehensively planned, the amendment will require the completion and approval of a Master Plan prior to development taking place. The Master Plan will continue to be updated through future site plan processes.

The proposal is consistent with the Provincial Policy Statement, conforms to the Growth Plan and complies with the Regional Official Plan, as it promotes walkability, is transit-supportive, maximizes the use of existing and new infrastructure, and assists in development of this area as a compact and complete community through the broad range of uses. The proposed development implements the redevelopment vision for the Major Transit Station Area as prescribed in both the current and newly adopted Official Plan and is, therefore, good planning.

SECTION 4 – THE AMENDMENT

1. The 1994 City of Kitchener Official Plan is hereby amended as follows:
 - a) Part 3, Section 13.7.4 Special Policies is amended by adding new 13.7.4.19 thereto as follows:

“19. Notwithstanding the Mixed Use Corridor land use designation and policies:
















 - i. The maximum permitted Floor Space Ratio shall be 7.5.
 - ii. Retail uses shall be permitted to have a maximum gross floor area of 10,000 square metres.
 - iii. Prior to development and/or redevelopment of the lands municipality addressed as 607-641 King Street West, a Master Plan will be required to be completed and approved by the City. The Master Plan will be required to be updated and approved by the City through the City's Site Plan Approval Process prior to and in conjunction with each stage of development and/or redevelopment. Substantial deviation from the approved Master Plan will require Council approval.

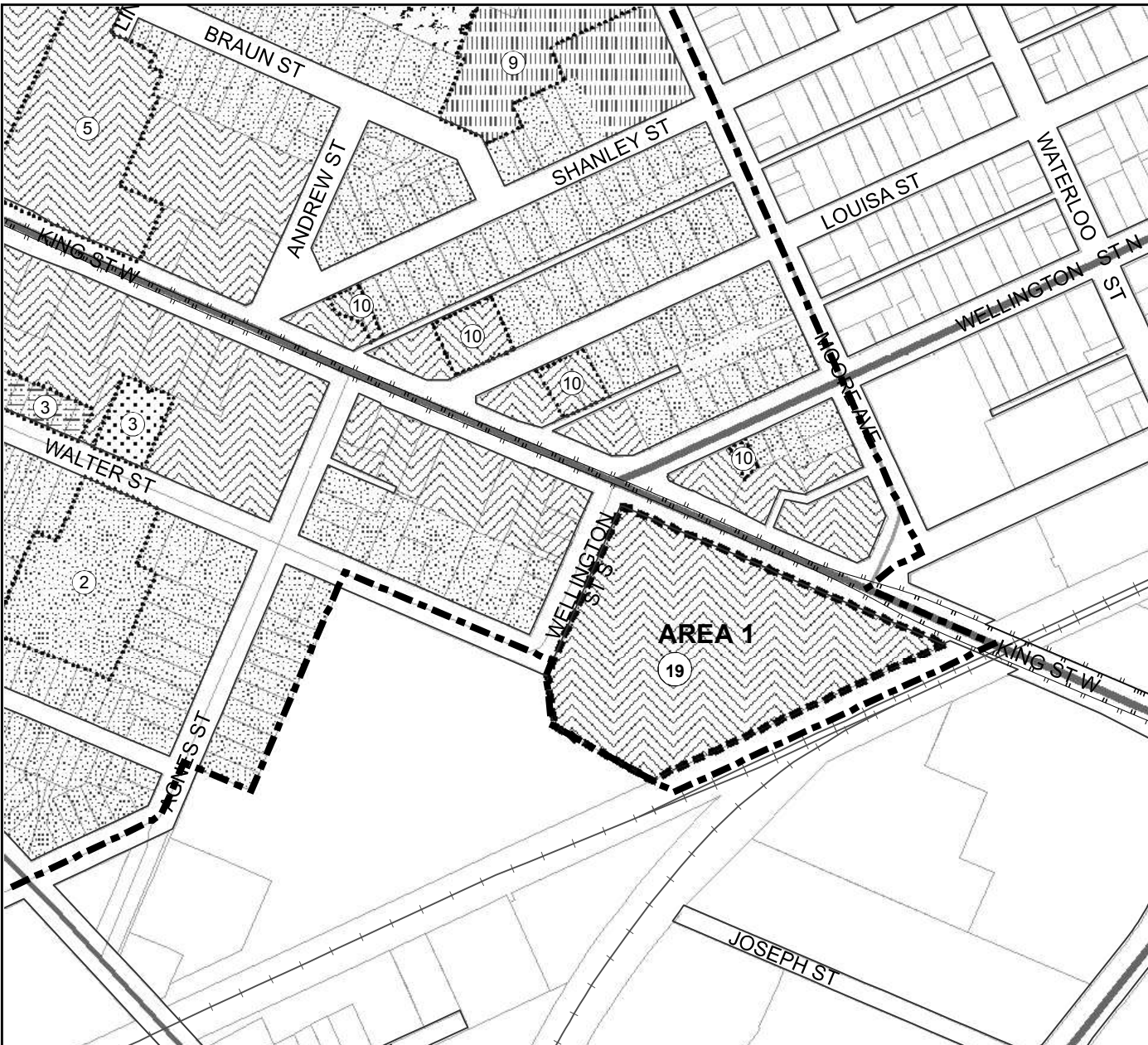
- c) Map 18 – K-W Hospital Neighbourhood Plan for Land Use is amended by adding Special Policy Area No. 19 to the lands municipally known as 607-641 King Street West, as shown on the attached Schedule A.

**CITY OF KITCHENER OFFICIAL PLAN
AMENDMENT TO MAP 18
K-W HOSPITAL
NEIGHBOURHOOD SECONDARY PLAN**



Legend

-  Low Rise Conservation
-  Low Rise Multiple Residential
-  Medium Density Multiple Residential
-  Neighbourhood Institutional
-  Mixed Use Corridor
-  Open Space
-  Special Policy Area
-  Boundary of Secondary Plan
-  Primary Arterial Road
-  Secondary Arterial Road
-  Major Collector Road
-  Minor Collector Road
-  Connector Road
-  Area 1
-  From Mixed Use Corridor
To Mixed Use Corridor
With Special Policy Area 19



SCHEDULE 'A'

CENTRE ICE LP

607-641 KING ST W



SCALE 1:4,000

DATE: JANUARY 14, 2021

REVISED:

OFFICIAL PLAN AMENDMENT OPA17/002/K/JVW

ZONING BY-LAW AMENDMENT ZBA17/009/K/JVW

City of Kitchener

Development Services Department, Planning

FILE:
OP17002KJW_SCHA_18
.mxd

Attachment 2

BY-LAW NUMBER _____

OF THE

CORPORATION OF THE CITY OF KITCHENER

(Being a by-law to amend By-law No. 85-1, as amended, known as the Zoning By-law for the City of Kitchener - Centre Ice LP and Centre Ice Developments GP Corp. - 607-641 King Street West)

WHEREAS it is deemed expedient to amend Zoning By-law 85-1;

NOW THEREFORE the Council of The Corporation of the City of Kitchener enacts as follows:

1. Schedule Number 74 of Appendix "A" to By-law 85-1 is hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 1 on Map No. 1 attached hereto, from High Intensity Mixed Use Corridor Zone (MU-3) with Special Use Provision 401U to High Intensity Mixed Use Corridor Zone MU-3 with Special Use Provision 482U and Special Regulation Provision 722R.
2. Schedule Number 74 of Appendix "A" to By-law 85-1 is hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 2 on Map No. 1 attached hereto, from High Intensity Mixed Use Corridor Zone (MU-3) with Special Use Provisions 395U and 401U to High Intensity Mixed Use Corridor Zone MU-3 with Special Use Provision 482U and Special Regulation Provision 722R.
3. Schedule Number 74 of Appendix "A" to By-law 85-1 is hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 3 on Map No. 1 attached hereto, from High Intensity Mixed Use Corridor Zone (MU-3) with Special Regulation Provision 504R and Special Use Provision 401U to High Intensity Mixed Use Corridor Zone MU-3 with Special Use Provision 482U and Special Regulation Provision 722R.

4. Schedule Number 74 of Appendix "A" to By-law 85-1 is hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 4 on Map No. 1 attached hereto, from High Intensity Mixed Use Corridor Zone (MU-3) with Special Use Provisions 395U and 401U to High Intensity Mixed Use Corridor Zone MU-3 with Special Use Provision 482U, Special Regulation Provision 722R and Holding Provision 82H.

5. Schedule Numbers 74 and 84 of Appendix "A" to By-law 85-1 are hereby amended by changing the zoning applicable to the parcel of land specified and illustrated as Area 5 on Map No. 1 attached hereto, from High Intensity Mixed Use Corridor Zone (MU-3) with Special Regulation Provision 504R and Special Use Provision 401U to High Intensity Mixed Use Corridor Zone MU-3 with Special Use Provision 482U, Special Regulation Provision 722R and Holding Provision 82H.

6. Schedule Numbers 74 and 84 of Appendix "A" to By-law Number 85-1 are hereby further amended by incorporating additional zone boundaries as shown on Map No. 1 attached hereto.

7. Appendix "C" to By-law 85-1 is hereby amended by adding Section 482U thereto as follows:

"482U Notwithstanding Section 55.1 of this By-law, within the lands zoned MU-3 as shown on Schedules 74 and 84 of Appendix "A", and as shown as being affected by this subsection, a brew house and/or craft distillery shall be permitted."

8. Appendix "D" to By-law 85-1 is hereby amended by adding Section 722R thereto as follows:

"722R

a) Notwithstanding Section 4 of this By-law, for the lands zoned MU-3, as shown on Schedules 74 and 84 of Appendix "A", the following additional definitions shall apply:

- i. "*Tall Building*" shall mean any residential or mixed use building containing residential uses that is 9 storeys or more;
- ii. "*Tower*" shall mean the 'middle' portion of a *Tall Building* connecting the *Base* to the top and housing the residential use;
- iii. "*Base*" shall mean the ground floor and any additional floors with a direct relationship to the streetscape and public realm. This can include multi-storey podiums, portions of a *Tower* which extend to the ground floor and above grade structured parking areas;
- iv. "*Tower Floor Plate*" shall mean the building floor area of a typical storey of the *Tower* portion of the building;
- v. "*Heritage House*" shall mean the original structure constructed in 1897 which has cultural heritage significance and has historically been known or referred to as the 'Kaufman House';
- vi. "*Crash Wall*" shall mean the structure that meets accepted safety standard that is intended to provide protection from a potential derailment;
- vii. "*Below Grade*" shall mean any portion of a building where the finished grade meets the exterior wall at an elevation not more than 0.5 metres below the elevation of the underside of an interior ceiling and the maximum slope taken from the closest lot line is not more than 18 degrees (3:1 slope). In the case where a retaining wall has been installed to meet these criteria, that portion of the building shall in no way be considered to be below grade;
- viii. "*Building Floor Area*" shall mean the aggregate horizontal floor area measured from the exterior walls of all *storeys* of a building excluding any floor area located below grade. The midpoint of a common wall

shall be considered the face of the exterior in the case of common walls located on a lot line;

- b) Notwithstanding Sections 5.23, of this By-law, for the lands zoned MU-3, as shown on Schedules 74 and 84 of Appendix “A”:
- i. no minimum setback shall be required for any building or part thereof devoted to parking or to non-residential use; and
 - ii. the setback from the railway to any building or part thereof used for residential dwellings shall be a minimum of 30 metres. The setback may be measured as the sum total of the following two measurements provided that a crash wall, or combination berm and fence are provided within the horizontal setback between the residential use and the lot line abutting the CN Rail right-of-way:
 - iii. the horizontal setback to the residential use from the lot line abutting the CN Rail right-of-way; and
 - iv. the vertical distance from the finished elevation of the CN railway line at the centerline of the tracks to the finished elevation of the residential use.
- c) Notwithstanding Section 6.1.2 a), 6.1.2 b)ii)Ab), 6.1.2b) iv), 6.1.2b)vi), 6.1.2b)vii) and 6.1.2d) of this Bylaw, for the lands zoned MU-3 as shown on Schedule Numbers 74 and 84 of Appendix “A”, the following special regulation shall apply:
- i. All required off-street parking shall be provided on a per-phase basis, to be calculated based on the uses proposed for the respective phase and all previously completed phases;
 - ii. Underground parking spaces shall have a minimum dimension of 2.6 m in width and 5.5 m in length;
 - iii. Underground parking is permitted with a setback of 0 metres from King Street and 0 metres from Wellington Street.
 - iv. Required off-street parking (including visitor parking) may be shared

- among the permitted uses;
- v. Required off-street parking for residential uses shall be provided at a rate of 0.65 spaces per unit (including visitor parking);
 - vi. Required off-street parking for non-residential uses (including office and retail) shall be provided at a rate of 1 space per 69 square metres of gross floor area;
 - vii. Off-street parking shall not be required for non-residential uses (including any community space) with a gross floor area of less than 1500 square metres;
 - viii. A shared parking reduction of 15% shall be applied to the total parking requirement; and
 - ix. A minimum of 20% of the parking spaces required for multiple dwellings shall be designed to permit the future installation of electric vehicle supply equipment.
 - x. Where the calculation of the total required electric vehicle parking spaces or parking spaces designed to permit the future installation of electric vehicle supply equipment results in a fraction, then the requirement shall be the next lowest number.
- d) Notwithstanding Section 6 of this By-law, for the lands zoned MU-3 as shown on Schedule Numbers 74 and 84 of Appendix "A", the following additional regulations shall apply:
- i. For Multiple Residential uses, the minimum requirement for Class A bicycle parking stalls shall be 0.5 Class A Bicycle Stalls per unit.
 - ii. For Office uses, the minimum requirement for Class A Bicycle Parking Stalls shall be 1 per 500 m² of GFA.
 - iii. For Retail uses, the minimum requirement for Class A Bicycle Parking Stalls shall be 1 per 1,000 m² of GFA.
 - iv. Shower and change facilities shall be provided in conjunction with the Class A bicycle parking stalls required for any non-residential uses in accordance with the following table:

Required Number of Class A Bicycle Parking Stalls	Minimum Total Area of Shower and Change Facilities	Minimum Number of Showers within Shower and Change Facilities
5-60	8 m ²	2 showers
61-120	12 m ²	4 showers
121-180	16 m ²	6 showers
Greater than 180	20 m ²	8 showers

- v. Notwithstanding the above, shower and change facilities shall not be required for individual non-residential units with an area of 1,000 m² or less.
 - vi. The number of parking spaces required for any non-residential uses requiring shower and change facilities may be reduced by 1 parking space per required shower.
- e) Notwithstanding Sections 55.2.1, and 55.2.2, and 55.2.2.2 of this By-law, for the lands zoned MU-3 as shown on Schedule Numbers 74 and 84 of Appendix "A", the following special regulations shall apply:
- i. No minimum setback from the abutting railway shall be required for any building or part thereof devoted to parking or to non-residential use;
 - ii. Dwelling units shall be permitted on the ground floor of a mixed use building;
 - iii. The minimum width of a primary ground floor façade shall be 0%;
 - iv. The maximum Floor Space Ratio (FSR) shall be 7.5;
 - v. The maximum gross floor area for an individual retail outlet may exceed 1,000 metres squared;
 - vi. A maximum gross floor area of 10,000 metres squared of

non-residential uses is permitted. Office use shall not be included for the purpose of the non-residential gross floor area cap of 10,000 metres squared;

vii. The minimum percentage of non-residential uses required shall be 0%. The maximum residential *Tower Floor Plate* for a *Tall Building* shall be 850 square metres.

viii. The maximum *Base* height for a residential *Tall Building* shall be 24 metres.

f) Notwithstanding Section 55.2. of this By-law, for the lands zoned MU-3 as shown on Schedule Numbers 74 and 84 of Appendix "A", the following additional regulations shall apply in relation to the Heritage House:

i. No buildings shall be permitted between the Heritage House and the King Street street line;

ii. A porch attached to the Heritage House shall be permitted between the building and the King Street street line and the maximum height regulation of Section 5.6.A.4) a) shall not apply;

iii. A canopy over the building entrance of the Heritage House may be permitted between the building and the King Street street line and the maximum projection regulation of Section 5.6.2a) shall not apply;

iv. The minimum horizontal separation distance from the Heritage House to a new building up to 8.0 metres in height to its northwest shall be 5.5 metres;

v. The minimum horizontal separation distance from the Heritage House to a new building above 9.5 metres in height to its northwest shall be 18.5 metres;

vi. The minimum horizontal separation distance from the Heritage House to a new building up to 8.0 metres in height to its southeast shall be 11.5 metres;

vii. The minimum horizontal separation distance from the Heritage House to a new building above 8.0 metres in height to its southeast

shall be 40 metres;

- viii. A building addition of up to 6.0 metres in depth may be permitted along the rear elevation of the Heritage House;
- ix. The minimum horizontal separation distance from the Heritage House to a building above 8.0 metres in height to its southwest shall be 17.5 metres;
- x. The Heritage House shall be deemed to comply to all applicable zoning regulations, including yards, building height, façade regulations and floor space ratio; and
- xi. Retail and other non-residential uses shall be permitted in the Heritage House and shall not be required to be located only on the ground floor with other permitted uses in upper floors of the Heritage House.

g) Notwithstanding Section 55.2. of this By-law, for the lands zoned MU-3 as shown on Schedule Numbers 74 and 84 of Appendix "A", the following additional regulations shall apply within 45 metres of the King Street street-line:

- i. The minimum setback from the lot line shared with the railway shall be 0.0 metres for a crash wall and 5.0 metres for a building used for parking or non-residential use where no crash wall is provided;
- ii. The minimum setback from the King Street street line shall be 1.5 metres except if located within 105 metres of the Wellington Street street line, in which case it shall be 4.5 metres with a maximum building height of 8.0 metres;
- iii. The maximum setback to the King Street street line shall be 7.5 metres except if located within 110 metres of the Wellington Street street line, in which case there shall be no maximum setback;
- iv. For a building with frontage on King Street, a minimum stepback from the King Street façade Base of a Tall Building to a Tower shall be 3.0 metres;

- v. The minimum setback from the Wellington Street street line shall be 1.5 metres. Ground level patios may encroach within this setback;
- vi. The maximum setback from the Wellington Street street line shall be 7.5 metres;
- vii. A minimum stepback from the Wellington Street façade Base of a Tall Building to a Tower shall be 3.0 metres;
- viii. A building having frontage on King Street as well as Wellington Street
 - i. shall be subject to the façade openings regulations of Section 55.2.1 of this By-law in relation to the King Street façade; and
 - ii. shall not be subject to the façade openings regulations of Section 55.2.1 of this By-law in relation to the Wellington Street façade.
- ix. Canopies and stairs shall be subject to a 0.0 metre minimum setback in relation to the King Street street line.

- h) Notwithstanding Section 55.2. of this By-law, for the lands zoned MU-3 as shown on Schedule Numbers 74 and 84 of Appendix “A”, the following additional regulations shall apply if greater than 45 metres of the King Street street-line:
 - i. within 7 metres of the Wellington Street street line the maximum height shall be 15 metres; and
 - ii. the minimum setback to the Tower portion of a Tall Building from the southern lot line shall be 7.5 metres.”

- 9. Appendix “F” to By-law 85-1 is hereby amended by adding Section 82H thereto as follows:

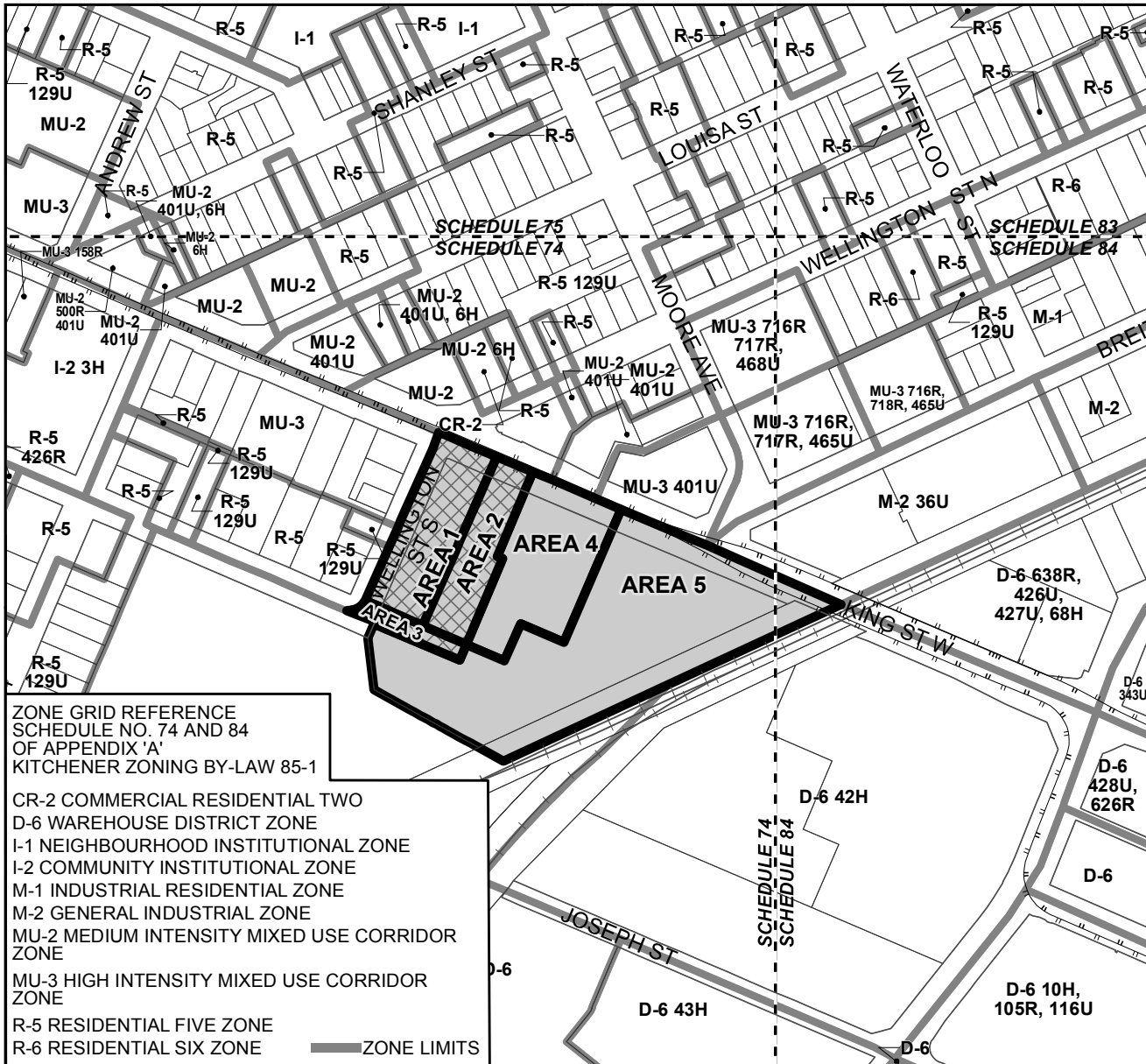
“82H

Notwithstanding Section 55 of this Bylaw, within the lands zoned MU-3 as shown as affected by this subsection on Schedules 74 and 84 of Appendix “A”, only those

uses which lawfully existed on the date of passing of this By-law, including those uses approved by Site Plan Application SP19/081/K/JVW, shall be permitted to continue until such time as this Holding Provision is removed by by-law once the City of Kitchener is in receipt of a letter from the Regional Municipality of Waterloo, advising that the Region's requirements have been satisfactorily addressed with respect to the submission and approval of a detailed Environmental and Stationary Noise study (detailed noise assessment for road, rail and rail vibration, stationary noise and compatibility). The holding provision may be removed incrementally with each stage of site plan approval subject to receipt and approval of the detailed noise report relating to the corresponding stage.”

10. This By-law shall become effective only if Official Plan Amendment No. __, 607-641 King Street West comes into effect, pursuant to Section 24(2) of The Planning Act, R.S.O. 1990, c. P.13, as amended.

PASSED by the Local Planning Appeal Tribunal this __ day of ____
2021.



SUBJECT AREA(S)

AREA 1 - [Pattern]
 FROM HIGH INTENSITY MIXED USE CORRIDOR ZONE (MU-3) WITH SPECIAL USE PROVISION 401U TO HIGH INTENSITY MIXED USE CORRIDOR ZONE (MU-3) WITH SPECIAL REGULATION PROVISION 722R AND SPECIAL USE PROVISION 482U

AREA 2 - [Pattern]
 FROM HIGH INTENSITY MIXED USE CORRIDOR ZONE (MU-3) WITH SPECIAL USE PROVISIONS 395U AND 401U TO HIGH INTENSITY MIXED USE CORRIDOR ZONE (MU-3) WITH SPECIAL REGULATION PROVISION 722R AND SPECIAL USE PROVISION 482U

AREA 3 - [Pattern]
 FROM HIGH INTENSITY MIXED USE CORRIDOR ZONE (MU-3) WITH SPECIAL REGULATION PROVISION 504R AND SPECIAL USE PROVISION 401U TO HIGH INTENSITY MIXED USE CORRIDOR ZONE (MU-3) WITH SPECIAL REGULATION PROVISION 722R AND SPECIAL USE PROVISION 482U

AREA 4 - [Pattern]
 FROM HIGH INTENSITY MIXED USE CORRIDOR ZONE (MU-3) WITH SPECIAL USE PROVISIONS 395U AND 401U TO HIGH INTENSITY MIXED USE CORRIDOR ZONE (MU-3) WITH SPECIAL REGULATION PROVISION 722R AND SPECIAL USE PROVISION 482U AND HOLDING PROVISION 82H

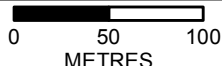
AREA 5 - [Pattern]
 FROM HIGH INTENSITY MIXED USE CORRIDOR ZONE (MU-3) WITH SPECIAL REGULATION PROVISION 504R AND SPECIAL USE PROVISION 401U TO HIGH INTENSITY MIXED USE CORRIDOR ZONE (MU-3) WITH SPECIAL REGULATION PROVISION 722R AND SPECIAL USE PROVISION 482U AND HOLDING PROVISION 82H

ZONE GRID REFERENCE
 SCHEDULE NO. 74 AND 84
 OF APPENDIX 'A'
 KITCHENER ZONING BY-LAW 85-1

- CR-2 COMMERCIAL RESIDENTIAL TWO
 - D-6 WAREHOUSE DISTRICT ZONE
 - I-1 NEIGHBOURHOOD INSTITUTIONAL ZONE
 - I-2 COMMUNITY INSTITUTIONAL ZONE
 - M-1 INDUSTRIAL RESIDENTIAL ZONE
 - M-2 GENERAL INDUSTRIAL ZONE
 - MU-2 MEDIUM INTENSITY MIXED USE CORRIDOR ZONE
 - MU-3 HIGH INTENSITY MIXED USE CORRIDOR ZONE
 - R-5 RESIDENTIAL FIVE ZONE
 - R-6 RESIDENTIAL SIX ZONE
- ZONE LIMITS

MAP NO. 1

CENTRE ICE LP
 607-641 KING ST W



SCALE 1:4,000
 DATE: JANUARY 14, 2021

ZONING BY-LAW AMENDMENT ZBA17/009/K/JVW
 OFFICIAL PLAN AMENDMENT OPA17/002/K/JVW

City of Kitchener
 DEVELOPMENT SERVICES DEPARTMENT, PLANNING

FILE:
 ZBA17009KJVW
 .mxd