

Preliminary Response to the
November 3, 2023 'Growing Together' Final Draft

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November 25, 2023

Response to the November 3, 2023 Growing Together Proposal

Thank you, Growing Together team, for your innovative and hard work on the rezoning of 7 of 10 Kitchener's Major Transit Station Areas.

Please consider the following preliminary recommendations, which are based on a reading of the Growing Together proposal with an eye on the Olde Berlin Town neighbourhood, the neighbourhood in which I live and understand best. While the suggestions address the lands within the Olde Berlin Town neighbourhood, which is largely governed by a heritage district plan, they may be equally applicable in other heritage districts and neighbourhoods.

Regarding the general Zoning Bylaw and Official Plan:

- 1) Review the proposed minimum interior side yard setbacks in conjunction with the permitted projection of balconies, canopies, location of steps and access ramps. These regulations can combine to leave less than 0.45m of passing space, which may direct occupants to routinely trespass onto a neighbour's property and may be insufficient to maintain a property from within one's own lands.
- 2) Express all height limits in metres. Storeys can vary significantly in height and the effect multiplied across multiple storeys can be significant. In providing limits in metres, developers will retain design flexibility as to their choice of the number and height of individual storeys and neighbours and the community can comprehend the outer limits of the built form envelope. Without a determinable limit expressed in metres, how can we be assured that an appropriate transition will be delivered?
- 3) Set the height limits currently defined in storeys as no more than:
 - a) 19.5m for the base height/first setback/physical separation/floor plate reduction of SGA-2, -3, and -4
 - b) 25.5m for the total height of SGA-2
 - c) 37.5m for the second setback/physical separation/floor plate reduction on SGA-3 and-4
 - d) 55.5m for the third setback/physical separation/floor plate reduction on SGA-3 and-4
 - e) 76.5m for the total height of SGA-3
 - f) 109.5m for the fourth setback/physical separation/floor plate reduction on SGA-4
- 4) Set a height limit on the SGA-4 zone. If current economics or engineering are perceived as providing a limit, please at least set that de facto limit, expressed in metres, into the zoning regulations. If a height limit on SGA-4 zones is not acceptable, please consider additional floor plate reductions.

- 5) Apply the built form regulations of SGA-3 to lands zoned INS-2.
- 6) Reconsider the removal of INS zoning on church properties. Alternatively, require a minimum amount of floor space be allocated for one or a combination of the following traditional community-serving uses: Community Facility, Cultural Facility, Day Care Facility, Place of Worship.
- 7) Regarding Parks and Greenspace:
 - a) I continue to be concerned that up-zoning lands in advance of acquiring any needed parkland could place our parkland targets further out of reach.
 - b) Require that front and exterior side yards and boulevards in SGA-1 be required to be predominantly landscaped with living plants, as opposed to hardscaping or fake plants, including carpeting that simulates grass.
 - c) Consider adding a 'Minimum landscaped area' regulation to Table 6-2 for Single Detached, Semi-Detached, and Street Townhouse Dwelling Units in addition to or instead of the 'maximum lot coverage' regulation.
 - d) Reconsider proposed Official Plan Section 15.D.2.25, "As a part of the required parkland dedication, land dedication will be encouraged over alternative forms such as cash-in-lieu for the creation of new public parks", so that the City may assemble larger parks. The parkettes achieved via land dedication do not offer the full range of benefits of a larger park, nor do they offer the City's Parks division the required flexibility to meet our park targets in areas of greatest need. Moreover, the preponderance of smaller parks may increase dramatically if developers choose to create Privately Owned Publicly Accessible Spaces.
 - e) Consider cash-in-lieu of meeting minimum landscaping requirements on Priority Streets so that replacement greenspace can be acquired elsewhere, perhaps consolidated into parks.

8) Regarding Use:

The Olde Berlin Town neighbourhood is presently well-serviced; I do not see that the proposed additional non-residential uses in SGA-1 zones can contribute to a more complete community. Driving more commercial uses into the interior of the neighbourhood could deplete the desired commercial activity from flanking and abutting SGA-2 zones and priority streets, Victoria St N, Ontario St N and Queen St N and reduce the availability of long-term housing units. Alternatively, broadening the range of permitted home occupations in what are presently residential areas could better recognize the existing reality while preserving the residential character sought by the Heritage District Plan (HDP) and avoiding the introduction of potential conflict between neighbours. In seeking to broaden the uses, I request that we be especially mindful of ensuring adequate capacity for servicing (deliveries, garbage pick-up, etc.) and of the transitions between SGA-1 and SGA-2+ zones that are not separated by a laneway or roadway. A

modification of the chart of permitted non-residential uses in SGA zones is included in Attachment A along with a map recommending adjustments.

For the SGA-1 zone, I identify the following possible remedies:

- a) Limiting the commercial uses to those undertaken by a resident of the building, with no more than a single employee or assistant at a time.
- b) Preserving separating distances between uses that might invite conflict over smells, pests, noise, etc. I am particularly thinking of establishments with full-scale kitchens and deep fryers, outdoor patios and outdoor sales.
- c) Removing proposed zoning bylaw amendment Section 4.14.8 c) of the zoning bylaw amendment which would permit restaurant decks and patios in a yard within 30m of a residential zone and SGA-1 zone.
- d) Limiting the operating hours of the commercial uses.
- e) Reducing the maximum floor area of the non-residential uses or setting an alternate limit in terms of percentage floor space of the building.
- f) Prohibiting backlit, electronic or moving signs and limiting signs to a size of no more than 0.75m², and to a location on or within 0.5m of the building, with a maximum height no more than 1.5m above grade.
- g) For SGA-1 or low-rise residential properties that front onto, or share a property line with, an SGA-2 zone along Weber St W, Water St N or Victoria St N, enhance the range of uses to assist with the transition and help the viability of these properties without compromising their heritage value. Recommendations included in Attachment A.

9) Regarding Transitions:

- a) Adjust the "Transition to Low Rise Zones" regulations to read "Minimum ~~rear~~ yard setback where the lot abuts a lot with an SGA-1 zone or a low-rise residential zone -- 7.5m". I was informed inclusion of 'rear' was an error.
- b) Re-insert a second stepback, such as that proposed via the NPR of a 25m maximum building height within 25m of a lot with an SGA-1 zone or a lot with a low-rise residential zone to better address the transition from an SGA-1 or low-rise zone to any abutting zone that permits more than 25.5 metres of height.
- c) Where it is deemed necessary to apply zoning that would produce an inappropriate transition, consider compensatory arrangements. Such arrangements need not apply to pre-existing builds.

10) Interaction with Heritage

The community may be better able to embrace the Growing Together proposal and accept that the proposed zoning does not fully account for the provisions of the Civic Centre Neighbourhood Heritage Conservation District Plan, if the following

statement is inserted into the Official Plan, perhaps after proposed Section 15.D.2.8:

The Civic Centre Neighbourhood Heritage Conservation District Plan (HDP), shall be read with the following substitutions:

<u>Existing language</u>	<u>Proposed substitutions</u>
“policies are proposed”	“policies shall be followed”
“(strongly) discouraged”	“not permitted”
“strongly encouraged”	“required”
“should”	“shall”
“avoid”	“refrain from”

Heritage Planning Staff may have additional suggestions.

The HDP was written as a proposal by a consultant, and the words chosen in that context. When Council adopted the plan, the recommendations and proposals became law. The Growing Together proposal is the opportunity to properly integrate the HDP into our planning framework.

If fully recognizing the HDP is not an option, then, I would recommend additional transitioning regulations. For example, for SGA-2+ zones abutting an SGA-1 or low-rise residential property along the rear property line, a minimum rear yard setback of 18m, for any portion of the build with height in excess of 19.5m, to permit appropriate transition and light. This may be especially needed where the SGA-2 property is to the south of the SGA-1 property. Furthermore, the proposed zoning on heritage resources would need to better align with the existing built form to avoid tension between the restrictions on the built form from the HDP and the more permissive limits offered via zoning. As a measure of last resort, in the absence of sufficient time, the handling of heritage resources could be overtly deferred to a future planning amendment.

A summary of the existing context provided by the HDP from previous submissions by the Olde Berlin Town Neighbourhood Association to the Neighbourhood Planning Review is included as Attachment B.

Attachment A: Modified Uses, Address-Specific Changes and Mapping

Suggested Changes to SGA-1 and SGA-2 uses and a proposed additional category of uses.

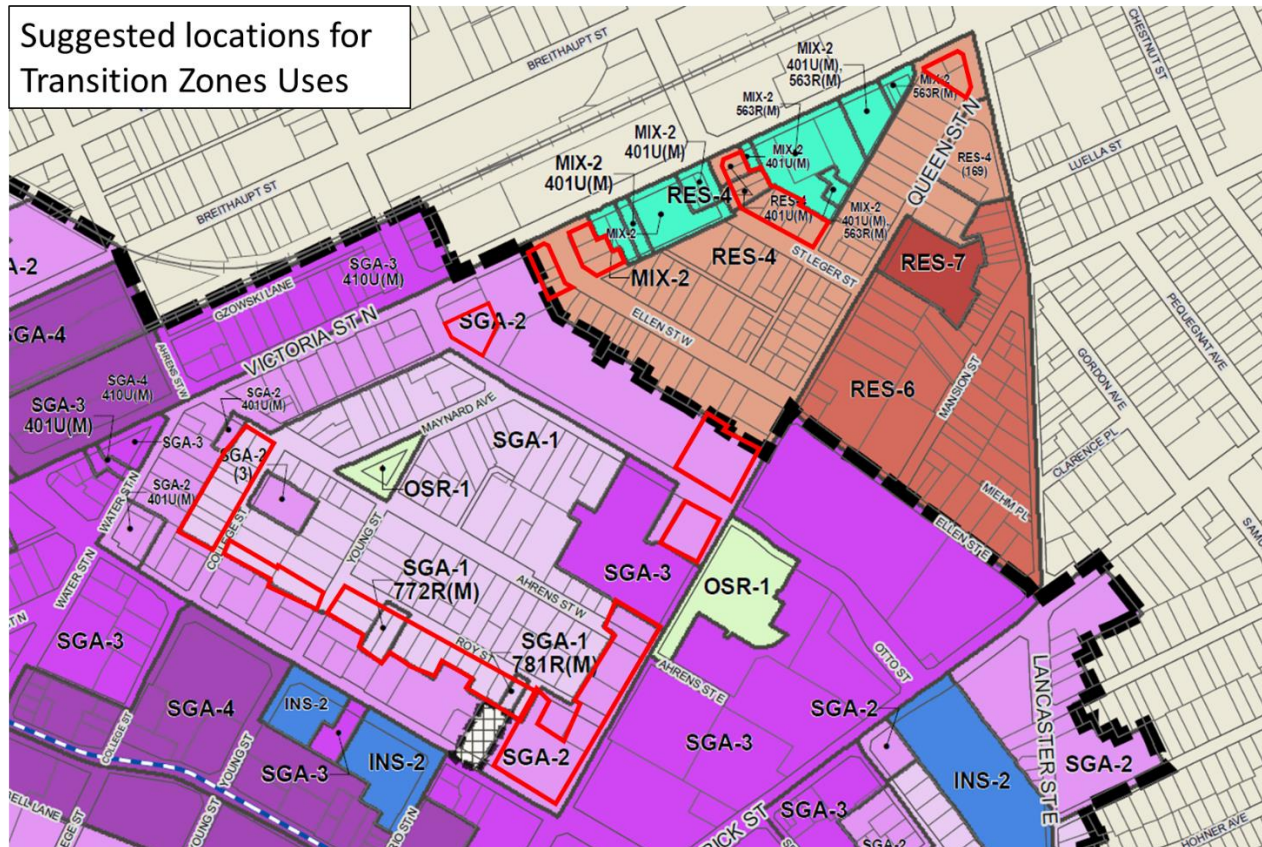
Use	SGA-1¹	SGA-2²	Transition Zone Uses
Home Occupations			
<i>Home occupation</i>	Y	Y	Y
Community Uses			
<i>Adult education school</i>	N	Y	N
<i>Community facility</i>	∕N	Y	Y
<i>Cultural facility</i>	∕N	Y	Y
<i>Day care facility</i>	Y	Y	Y
<i>Elementary school</i>	N	Y	N
<i>Hospital</i>	N	N	N
<i>Place of worship</i>	∕N	Y	Y
<i>Post-secondary school</i>	N	Y	N
<i>Secondary school</i>	N	Y	N
<i>Social service establishment</i>	∕N	Y	Y
Commercial Uses			
<i>Artisan's establishment</i>	Y	Y	Y
<i>Brewpub</i>	∕N	Y	N
<i>Catering services establishment</i>	N	Y	Y
<i>Commercial entertainment</i>	N	Y	N
<i>Commercial parking facility</i>	N	∕N	N
<i>Commercial school</i>	Y	Y	Y
<i>Conference, convention, or exhibition facility</i>	N	N	N
<i>Craftsperson shop</i>	Y	Y	Y
<i>Financial establishment</i>	∕N	Y	N
<i>Fitness centre</i>	Y	Y	Y
<i>Health clinic</i>	∕N	Y	Y
<i>Hotel</i>	N	Y	N
<i>Light repair operation</i>	Y	Y	Y
<i>Office</i>	Y	Y	Y
<i>Payday loan establishment</i>	∕N	Y	N
<i>Pawn establishment</i>	∕N	Y	N
<i>Personal services</i>	Y	Y	Y
<i>Pet services establishment</i>	Y	Y	Y
<i>Print shop</i>	Y	Y	Y
<i>Restaurant</i>	∕N	Y	N
<i>Retail</i>	Y	Y	N
<i>Veterinary services</i>	∕N	Y	N
Creative Industry Uses			
<i>Biotechnological establishment</i>	N	∕N	N
<i>Computer, electronic, data processing or server establishment</i>	N	Y	Y
<i>Creative products manufacturing</i>	N	Y	N
<i>Research and development establishment</i>	N	∕N	N

¹ Must be operated by resident of building, no more than one non-resident assistant/employee at a time. Any signs are limited to no more than 0.75m² in size, attached to the building or within 0.5m of the building, no more than 1.5m above grade. No backlit, electronic or moving signs.

² May require front-in, front-out parking and loading.

Suggested Locations for Transition Zone Uses (outlined in red on map below)

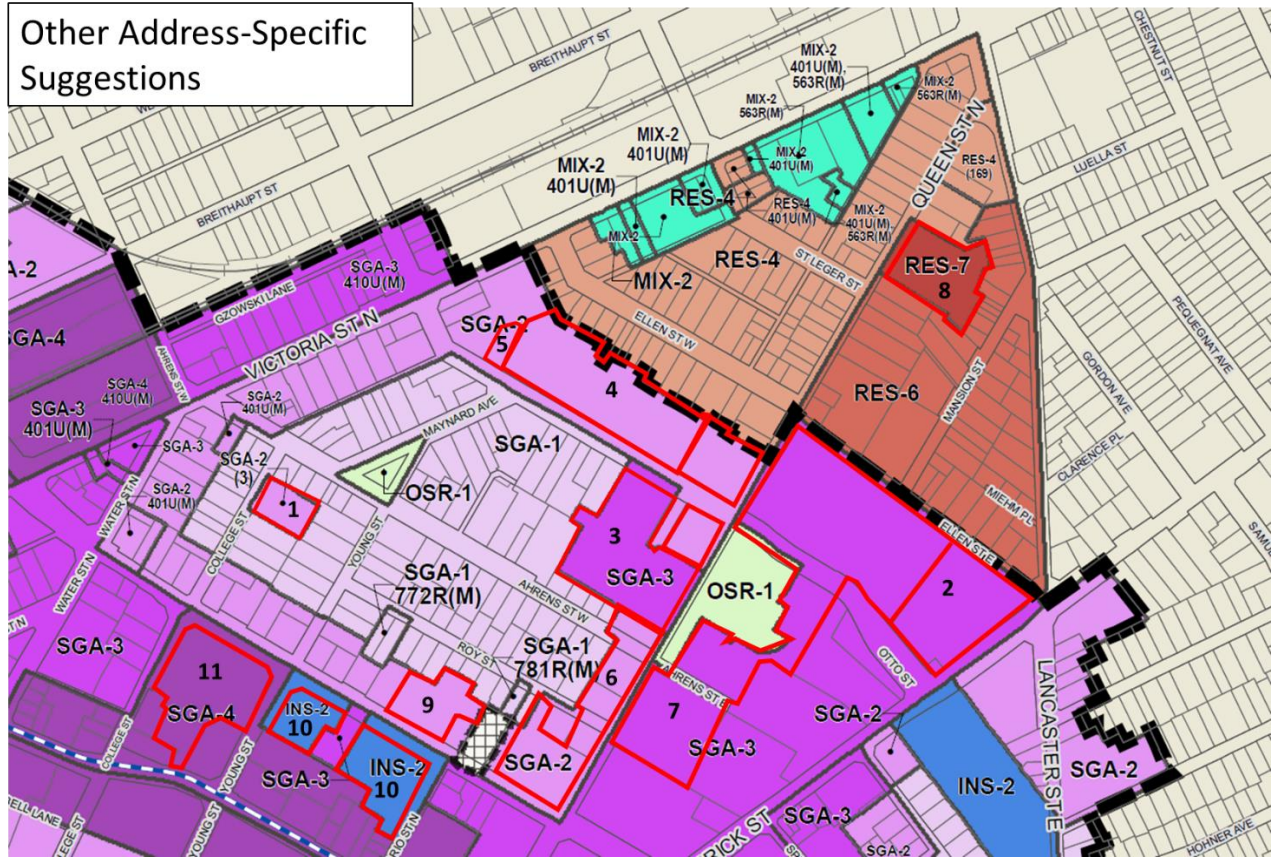
#	Address	Proposed Zone	Requested Change(s)
1	87&91 Ahrens St W	SGA-1	Transition Zone Uses
2	94-120 (even) and 95 College St		Transition Zone Uses
3	47-61 Ellen St W (both sides)	RES-4	Transition Zone Uses
4	7 Lancaster St E	RES-4	Transition Zone Uses
5	64 Margaret Ave	SGA-2	Transition Zone Uses
6	68-116 Queen St N (even)	SGA-2, -3	Transition Zone Uses
7	194 Queen St N	RES-4	Transition Zone Uses
8	23-65 Roy St (odd)	SGA-1	Transition Zone Uses
9	14-46 St Leger St (odd)	RES-4	Transition Zone Uses
10	231 Victoria St N	RES-4	Transition Zone Uses
11	341&343 Victoria St N	RES-4	Transition Zone Uses
12	106, 109, 113 Young St	SGA-1, -2	Transition Zone Uses



Other Address-Specific Suggestions (outlined in red on map below)

#	Address	Proposed Zone	Requested Change(s)
1	119 College St	SGA-2 (3)	SGA-1 uses, as in above chart. Insert Special Regulation: "The existing build preceded the HDP and the 2024 amendments to the Official Plan and Zoning Bylaw."
2	200 Frederick St	SGA-3	Maximum height of 25m, within 50m of the Ellen St E property line and a maximum height of 50m elsewhere, to limit shadow impact.
3	11 Margaret Ave/100 Queen St N	SGA-3	SGA-2 uses, as in above chart. Match height limit to existing build. Insert Special Regulation: "The existing build preceded the HDP and the 2024 amendments to the Official Plan and Zoning Bylaw."
4	30-40 Margaret	SGA-2	SGA-1 zone. Special Regulations to permit the OMB built-form regulations. The property is at the outer boundary of the SGA and abuts a low-rise residential area.
5	54 Margaret Ave	SGA-2	SGA-1 zone. The property is at the outer boundary of the SGA and abuts a low-rise residential area.
6	54-116 Queen St N (even)	SGA-2, -3	Maximum podium or base height of no more than 14m and minimum front yard setbacks of 4.5m, to preserve setting.
7	73-101 Queen St N (odd)	SGA-3	Maximum podium or base height of no more than 14m and minimum front yard setbacks of 4.5m, to preserve setting. Maximum height of 25m, within 25m of the Queen St N property line and within 50m of the Ellen St E property line and a maximum height of 50m elsewhere, to limit shadow impact.
8	175 Queen St N	RES-7	Insert Special Regulation: "The existing build preceded the HDP and the 2024 amendments to the Official Plan and Zoning Bylaw."
9	32 Weber St W	MIX-3, RES-3 Office	Retain Special Regulation 133R. Permit division of the property along the line parallel to Roy St, 30 metres from the Roy St street line, if owner requests. No vehicular access to Roy St, whether consolidated with 41 and/or 51 Roy St or not.
10	35&37 Weber St W	INS-2	Adopt built form regulations of SGA-3.
11	80 Young St	SGA-4	SGA-3, for the first 50m south of Weber St W, or a site-specific provision to limit height to SGA-3 limit in the first 50m south of Weber St W to 50m, to limit shadow impact on the north side of Weber St W.
12	Lands to the south of the Heritage District	INS-2, SGA-3, SGA-4	Additional measures to reduce or address the shadow burden on neighbours to the north.

Other Address-Specific Suggestions



Attachment B: Civic Centre Neighbourhood Heritage Conservation District Plan (HDP)

Direction

Olde Berlin Town is a neighbourhood originally constructed between 1870 and 1930, where “[a]lmost two-thirds of the existing houses were built between 1880 and 1917” (p. 2.3, HDP). The existing low-rise heritage houses (Group A, B, and C houses) make up 91.4% of the buildings in the Heritage District and have:

1. a height at the peak of the roof of under 10 m (compared to a proposed limit of 11 m);
2. a height at the eaves of under 7 metres and sloped roofs which permit light to reach neighbouring properties;

The land use goal identified by the HDP is to

“Maintain 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” (p 3.2).

A guiding principle regarding land use is to

“Preserve Traditional Setting - A building is intimately connected to its site and to the neighbouring landscape and buildings. Land, gardens, outbuildings and fences form a setting that should be considered during plans for restoration or change. An individual building is perceived as part of a grouping and requires its neighbours to illustrate the original design intent. When buildings need to change there is a supportive setting that should be maintained” (p. 3.4, HDP).

The HDP “Encourag[es] individual building owners to understand the broader context of heritage preservation, and recognize that buildings should outlive their individual owners and each owner or tenant should consider themselves stewards of the building for future owners and users” (p. 3.1). Individual property owner buy-in as well as cooperation and support from the Planning Department and the City of Kitchener is required to foster and maintain this partnership of preserving the buildings and the context that supports them.

I note that ‘compatible with’ is not synonymous with ‘the same as’. I propose that two built forms and settings be deemed compatible if

1. the presence of one does not compromise the other,
2. the two can co-exist indefinitely, and
3. either could emerge in the presence of the other.