

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** November 15, 2021

**CASE NO(S):** PL200235

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

Applicant and Appellant:	Armel Corporation
Subject:	Request to amend the Official Plan - Refusal of request by City of Guelph
Existing Designation:	Low Density Greenfield Residential
Proposed Designated:	High Density Residential, Medium Density Residential, Open Space and Park
Purpose:	To permit 678 dwelling units and a park
Property Address/Description:	361 Whitelaw Road
Municipality:	City of Guelph
Approval Authority File No.:	OZS18-005
OLT Case No.:	PL200235
OLT File No.:	PL200235
OLT Case Name:	Armel Corporation v. Guelph (City)

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

Applicant and Appellant:	Armel Corporation
Subject:	Application amend Zoning By-law No. 1995-14864 - Refusal of Application by City of Guelph
Existing Zoning:	Urban Reserve (UR) and Agriculture (A)
Proposed Zoning:	Site Specific
Purpose:	To permit 678 dwelling units and a park
Property Address/Description:	361 Whitelaw Road
Municipality:	City of Guelph
Municipality File No.:	OZS18-005
OLT Case No.:	PL200235
OLT File No.:	PL200236

**Heard:** June 14 to 24, 2021 by video hearing

**APPEARANCES:**

<u>Parties</u>	<u>Counsel</u>
Armel Corporation	K. Mullin
City of Guelph	A. Biggart

**DECISION DELIVERED BY M. RUSSO AND STEVEN COOKE AND ORDER OF THE TRIBUNAL**

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**INTRODUCTION AND BACKGROUND**

[1] The matter before the Tribunal was a hearing of the merits for an application that was refused by the City of Guelph (the “City”) to amend the Official Plan (the “OP”) and Zoning By-laws (the “ZBL”) to the property municipally known as 361 Whitelaw Road (the “Subject Site”).

[2] The Armel Corporation (the “Appellant”) has proposed to intensify the Subject Site by providing a range of mixed dwelling units and designating part of the property to be a park space. City staff recommended approval of the application to Council, but the application was refused on February 10, 2020, with Council citing concerns with the proposed density, traffic, parking, and hydrology issues.

[3] The applications for the Subject Site would permit a redesignation from Medium and Low Density Residential and a rezoning from Agriculture Zone and Urban Reserve Zone in order to permit High Density Residential above the Medium and Low Density Residential (that is currently allowed) and Open Space and Parks (neighbourhood park).

[4] The Proposal consists of 678 total residential units with 552 apartment units shared within high-rise buildings ranging in heights from 8 to 9 storeys, and the mid-rise buildings proposed at 5 storeys. The additional 124 residential units are to be in stacked townhouse and townhouse-built forms.

## **Site Context and Area**

[5] The Subject Site is located at the southwest corner of Paisley Road and Whitelaw Road and is located at the northwest border of the City, abutting the Township of Guelph/Eramosa.

[6] The Subject Site is 7.01 hectares in size with approximately 190 metres ("m") of frontage along Paisley Road and approximately 480 m of frontage along Whitelaw Road. The Subject Site is currently vacant, and a portion is actively used as agricultural land.

[7] To the north of the Subject Site are primarily vacant commercial lands, with some recent commercial construction having occurred that are part of the Paisley/Imperial Commercial Mixed-Use Centre (the "Mixed-Use Node"), which allows mixed-uses as well as heights of up to 10 storeys and densities up to 150 units per hectare. To the west is an identified wetland, woodlot and agricultural lands that are situated in the Township of Guelph/Eramosa. To the east of Whitelaw Road and the Site are vacant lands zoned "General Residential Apartment" with an approved 8-storey building and additional residential units. To the south are existing single detached dwellings along Whitelaw Road and Shoemaker Crescent.

[8] The Subject Site is designated "Low Density Greenfield Residential" in the OP, with a small portion of the westerly edge designated as "Significant Natural Area". The northwest portion of the Subject Site is part of the Mixed-Use Node. The Subject Site is currently zoned "Urban Reserve" (UR) along Whitelaw Road and the westerly portion of the Site is zoned "Agricultural" (A) in the Township of Guelph/Eramosa ZBL. The Urban

Reserve Zone generally permits agricultural and conservation uses. The Agricultural Zone remains from when the City annexed this portion of the Site from the Township of Guelph/Eramosa.

### **Core Issue**

[9] The core issue in contention for the hearing of the merits revolved around density, scale of development on the Subject Site, and the height of a number of proposed buildings.

[10] Both Parties acknowledged the Subject Site is appropriate for development and has the designated land use allowing for growth and development currently.

### **APPLICABLE LEGISLATION AND POLICIES**

[11] Land use planning in Ontario is a policy-led system implemented in hierarchical fashion. This system is deliberately crafted to recognize that there cannot be a one-size fits all approach to implementing policy framework, given the diversity of Ontario's local communities. As such, the broader Provincial policies and objectives are to be implemented by each municipality through their OP, ZBLs, issue-specific guidelines, etc.

[12] In adjudicating these appeals, the Tribunal must have regard to matters of provincial interest enumerated in s. 2 of the *Planning Act* (the "Act"). The Tribunal must be satisfied that the Proposal is consistent with the Provincial Policy Statement, 2020 (the "PPS"), pursuant to s. 3(5) of the Act. Further, the Tribunal must also find that the Proposal conforms with policies of the provincial plan: A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (the "Growth Plan"). Lastly the Tribunal must be satisfied with the proposal's conformity with the City OP, and that it represents good land-use planning in the public interest.

## **EXPERT WITNESSES**

[13] The Appellant called four witnesses and each of them provided an Acknowledgment of Expert's Duty Form and their *Curriculum Vitae* ("CV"). The Tribunal was asked that they be recognized and qualified as experts in their fields as follows:

- i. Hugh Handy – Land-Use Planning;
- ii. David Moore – Urban Design;
- iii. Julia Salvini – Transportation Planning and Engineering; and
- iv. Angela Kroetsch – Transportation Engineering and Design.

[14] The City called two witnesses and they also provided an Acknowledgment of Expert's Duty Form and their CV. The Tribunal was asked that they be recognized and qualified as experts in their fields as follows:

- i. Franco Romano – Land- Use Panning; and
- ii. William Maria – Transportation Planning and Engineering.

[15] Having heard no objections on the qualifying of the expert witnesses from Counsel and upon review of their CV and Expert's Duty Form, the Tribunal duly affirmed and qualified the witnesses in their respected fields.

## **PLANNING AND URBAN DESIGN**

### **The *Planning Act***

[16] Section 2 of the Act identifies matters of provincial interest and provides a lengthy list of criteria to which a municipality shall "have regard to" in carrying out its responsibility and evaluating applications for development.

[17] Mr. Handy provided the opinion that the Proposal indeed has regard to s. 2 of the Act. In his opinion the development efficiently utilizes existing services, provides for a range of housing types, complies with accessibility standards, and does not infringe on any natural features, areas, or functions. He further opined the Proposal includes a range of densities that efficiently uses land and infrastructure while encouraging use of active transportation and transit and provides a pedestrian trail system that will facilitate pedestrian movement through the Site to public transit routes.

[18] Mr. Handy as well as Mr. Moore opined on behalf of the Appellant, that the buildings include setbacks and step-backs to minimize the height and massing of the buildings along Paisley Road creating a pedestrian-friendly streetscape. Further, both Messer's opined having the higher buildings towards the north and transitioning south to the mid-rise built form, to townhouse and to the parklands proposed, exemplifies orderly development of safe healthy communities, with a full range of housing options proposed.

## **The Growth Plan**

[19] Section 2.2.1 of the Growth Plan outlines the growth management policies of Ontario.

[20] Policy 2.2.1.2 provides for forecasted growth to be allocated based on the following:

- a) the vast majority of growth will be directed to settlement areas that:
  - i. have a delineated built boundary;
  - ii. have existing or planned municipal water and wastewater systems; and
  - iii. can support the achievement of complete communities;
- b) growth will be limited in settlement areas that:
  - i. are rural settlements;
  - ii. are not serviced by existing or planned municipal water and wastewater systems; or
  - iii. are in the Greenbelt Area;

- c) within settlement areas, growth will be focused in:
  - i. delineated built-up areas;
  - ii. strategic growth areas;
  - iii. locations with existing or planned transit, with a priority on higher order transit where it exists or is planned; and
  - iv. areas with existing or planned public service facilities;

[21] *Strategic Growth Areas* are defined as follows:

Within settlement areas, nodes, corridors, and other areas that have been identified by municipalities or the Province to be the focus for accommodating intensification and higher density mixed uses in a more compact built form. Strategic growth areas include urban growth centres, major transit station areas, and other major opportunities that may include infill, redevelopment, brownfield sites, the expansion or conversion of existing buildings, or grey fields. Lands along major roads, arterials, or other areas with existing or planned frequent transit service or higher order transit corridors may also be identified as strategic growth areas.

[22] Mr. Handy opined that the Proposal conforms with the policies of s. 2.2.1 above and conform with s. 2.2.1.4, the establishment of complete communities that:

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

- f. mitigate and adapt to the impacts of a changing climate, improve resilience, and reduce greenhouse gas emissions, and contribute to environmental sustainability; and
- g. integrate green infrastructure and appropriate low impact development.

[23] Mr. Romano opined in contrast that the Proposal does not conform to the policies of the Growth Plan. It was his position that the Proposal fails to be in a *Built-Up Area*, the *City's Downtown*, an *Intensification Corridor* or in proximity of a *Major Transit Station*. He further opined that even when meeting certain criteria such as being located within a Mixed-Use Node, only a portion of the Subject Site falls within the periphery of the Node.

[24] The City's submission was that the evidence provided by the Appellant has put emphasis and justified the Proposal's magnitude of development, on the Subject Lands being partially within a Mixed-Use Node. However, Mr. Romano disagreed with this assertion and brought the Tribunal to s. 5.2.5.8 of the Growth Plan, which states:

The identification of strategic growth areas, delineated built-up areas, and designated greenfield areas are not land use designations and their delineation does not confer any new land use designations, nor alter existing land use designations. Any development on lands within the boundary of these identified areas is still subject to relevant provincial and municipal land use planning policies and approval processes.

[25] The Appellant did not dispute the land use designation and submitted an official plan amendment ("OPA") and zoning by-law amendment ("ZBLA") were required to facilitate the Proposal. However, the Growth Plan provides direction and outlines the growth management policies of Ontario as indicated. The Appellant's submission was that the Growth Plan does not limit development to only occur in the Strategic Growth Area and it is the policies themselves that dictate growth management within the Growth Plan.

[26] Policy 2.2.7, *Designated Greenfield Areas* states:

1. New development taking place in designated greenfield areas will be planned, designated, zoned and designed in a manner that:
  - a) supports the achievement of complete communities;
  - b) supports active transportation; and
  - c) encourages the integration and sustained viability of transit services.
2. The minimum density target applicable to the designated greenfield area of each upper-and single tier municipality is as follows:  
The Cities of Barrie, Brantford, **Guelph**, Hamilton, Orillia and Peterborough and the Regions of Durham, Halton, Niagara, Peel, Waterloo and York will plan to achieve within the horizon of this Plan a minimum density target that is not less than **50 residents and jobs combined per hectare**.
3. The minimum density target will be measured over the entire designated greenfield area of each upper-or single-tier municipality, excluding the following:
  - a) natural heritage features and areas, natural heritage systems and flood plains, provided development is prohibited in these areas;
  - b) rights-of-way for:
    - i. electricity transmission lines;
    - ii. energy transmission pipelines;
    - iii. freeways, as defined by and mapped as part of the Ontario Road Network; and
    - iv. railways;
  - c) employment areas; and
  - d) cemeteries.

[27] The Growth Plan in s. 2.2.7 requires that the minimum density target applicable to the OP land use designation in the *Greenfield area* of the City is 50 residents and jobs combined per hectare, as indicated above. It is uncontested that this provincially mandated target is being met and is forecasted to continue to be met. The City's submission is that this demonstrates that there is "no need" for the Proposal's large deviation from what is allowed, low to medium growth, meeting the City's vision while still contributing to the minimum density targets.

[28] It was the City's submission and Mr. Romano's evidence that the Subject Site's current OP designation conforms to, and does not conflict with, the Growth Plan. Council's decision on the application does not affect the implementation of the Growth Plan policies or give rise to a conflict or non-conformity with those policies.

### **The Provincial Policy Statement**

[29] Mr. Romano testified that the Proposal incorporates a high-density form of development which is inappropriate for this location and represents an overdevelopment of the Subject Site. The Proposal therefore is not consistent with the PPS.

[30] He opined, in implementing the PPS, the OP identifies appropriate locations where development, intensification and redevelopment are to be accommodated. These are shown on Schedule 1 – Growth Plan Elements of the OP. The Subject Site is not within the *Built-Up Area* where the City has prioritized growth. Rather, it is within the *Greenfield Area* where less intense forms of development are directed.

[31] In formulating his opinion, Mr. Romano took direction from Policy 1.1.3.3 which states:

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.

Mr. Romano opined that the Subject Site not falling within the *Built-Up Area* identified by the City, being at the periphery geographically of the City (opposed to the *Downtown*), not being in proximity to *Major Transit* Station or within a *Intensification Corridor* fails the test of consistency above, in s. 1.1.3.3 and therefore is not appropriate for the density proposed.

[32] Mr. Handy in contrast gave his opinion that the Proposal is consistent with the PPS and provided several policies in support of his opinion. In his opinion, the Subject Site is located within a Mixed-Use Node, which the City has acknowledged may accommodate additional density in accordance with approved community mixed use node principles. Therefore, not falling in the land use areas put forward by Mr. Romano, does not preclude, nor prohibit the Proposal. Mr. Handy opined it is the Proposal's overall relation to the surrounding amenities and services combined with its transitioned more dense growth within the Mixed-Use Node diminishing to a proposed park, that support the Proposal's overall consistency with policies of the PPS, and in his opinion the appropriateness of the Proposal.

[33] Mr. Handy stated that the Proposal is consistent with s. 1.1.1, *establishing a healthy, livable and safe community*, of the PPS. Subsections of this policy speak to promoting efficient development and land use patterns while accommodating an appropriate mix and range of residential units. Further, this policy strives to promote transit supportive development and improve access to elderly or those with disabilities while avoiding public health and safety concerns and minimizing land consumption and servicing costs.

[34] It is uncontested that the Subject Site falls within the Settlement Area of the City prescribed by the province and where growth is promoted as indicated in s. 1.1.3.1.

[35] Section 1.1.3.2 states that settlement areas are to be based on densities and a mix of land uses which efficiently use land and resources. Mr. Handy opined the Proposal achieves and is consistent with this policy. He further provided evidence in his testimony that the Proposal being in close proximity to public transit, public service facilities, and having sufficient infrastructure in place, while being pedestrian friendly and providing active transportation connections, minimizes climate change concerns in further support his opinion of consistency to the PPS.

[36] Mr. Handy provided his opinion that the Proposal is consistent with s. 1.4.3, and as he previously indicated, provides for a range and mix of housing choices and is a *Compact Urban Form*. Its proposed land use pattern encourages efficient land use, walkable communities and mixed land uses. Further, Mr. Handy responded to the Mr. Romano's criticism that the Proposal lacks the mixed land use required in the definition of *Compact Urban Form*. To this Mr. Handy opined that mixed use is encouraged, not an absolute requirement. With ample retail/commercial developments existing and proposed to the immediate north of the Subject Site, the Proposal focuses on the built forms ranging from townhouse to apartment. In his opinion, this creates a true *complete community* and a harmonious as well as compatible fit that is consistent with the PPS.

[37] The Proposal is consistent with s. 1.5.1, the promotion of healthy active communities, in the opinion of Mr. Handy. The inclusion of active transportation connections on Site combined with pedestrian friendly connections to the community and onsite, as well as the inclusion of a neighbourhood park proposed, aid in formulating his opinion. Mr. Handy further opined that the factors above, combined with having transit in close proximity further highlight consistency with s. 1.6.7.4, minimizing vehicular dependency and s. 1.8.1 preparing for and mitigating climate change.

## **The Official Plan**

[38] The City submits that schedule 1 of the OP, the Growth Plan elements map depicts the following:

- i. The Site is not located in proximity to a Major Transit Station
- ii. The Site is not located in an Intensification Corridor;
- iii. The Site is partially located within the depiction of a Community Mixed Use Node;
- iv. The Site is not within the Urban Growth Centre; and
- v. The Site is within the Greenfield Area.

[39] Further the City submitted, the Subject Lands are already afforded greater permissions than many other low-rise residential sites throughout the City. *Low Density Residential* permits a maximum height of 3-storeys and 35 units per hectare. The Subject Site, with its designation of *Low-Density Greenfield* Residential, already permits a much higher density than permitted in the *Low-Density Residential* designation. *Low Density Greenfield* Residential permits a height of 6-storeys and a maximum density of 60 units per hectare and a minimum density of 20 units per hectare.

[40] Mr. Handy confirmed that the *Low-Density Greenfield* designation allows for growth as provided above. He did although note, that the units per hectare could be increased to 100 with available density bonussing. He opined, the current designation is not necessarily a limitation, that it reinforces the Strategic Goal of the City to develop the Subject Site into a *complete community*. He opined that the increased density can be justified interpreting the policies in their entirety, not dissected one by one. It was Mr. Handy's conclusion that the evolution of the area combined with the many attributes of the Proposal demonstrate conformity with the OP.

[41] Mr. Romano opined that s. 1.3.14 reinforces the Proposal's non-conformity and the City's position that there is "no need" for the intensity of the Proposal, particularly citing subsections:

- iii. Suitability of the site or area for the proposed use, particularly in relation to the other sites or areas of the City.
- iv. Compatibility of the proposed use with adjacent land use designations
- v. The need for the proposed use, in light of projected population and employment targets.

[42] The submission of the Appellant was that s. 1.3.14 is indeed part of the interpretation of the OP, however, the OP also includes s. 1.3.1. Section 1.3.1 instructs the reader to read the OP in its entirety as a policy framework, and that no provision is elevated above others, as also opined by Mr. Handy. The Appellant also submitted that

s. 1.3.14 and subsections within are not determinative or overriding, as somewhat suggested by Mr. Romano.

[43] Mr. Moore opined that the Proposal has gone to great lengths to respect and incorporate urban design principles that are appropriate and within the policies of the City OP. These include and are not limited to appropriate separation distances, public realm, setbacks and stepbacks, with the use of angular planes to justify the built forms proposed. The Proposal has submitted shadow studies that have demonstrated no negative impacts to neighbouring homes or buildings. Mr. Moore opined that the Proposal is an attractive, well designed complete community that transitions well to the low-rise built form existing to the south.

[44] Mr. Romano stated the OP requires the Proposal to be generally consistent to the *concept plan*. Further, he opined the *concept plan* envisions taller buildings generally be located near the Main Street / Elmira Road intersection or some distance away from the Subject Site. The Subject Site is at the periphery, outside of the node elements and containing no streetwall building elements.

[45] Mr. Moore in his reply witness statement responded to this opinion of Mr. Romano and his reference to taller buildings being generally near the Main Street / Elmira Road intersection within the *concept plan*. In reply, Mr. Moore makes the distinction that “generally” does not mean “only”.

[46] Mr. Moore provided evidence that the *concept plan* was developed in 2012. There has been significant natural evolution in the area, and the *concept plan* itself had written into it, the intention of the *plan* to evolve. This is demonstrated by the lands across the street to the east also not having been depicted in the *concept plan*, but now having approvals for an 8-storey building. Mr. Handy opined similar conclusions could be derived from how the north side of Paisley Road has developed. Where high density was conceptualized, but the area has primarily developed to provide low rise commercial big box stores.

[47] Mr. Handy provided his opinion that the Proposal conforms with s. 9.3.1.1 of the OP which sets out development criteria for multi-unit residential buildings and intensification proposals.

[48] The Appellant's submission was that the introductory text of s. 9.3.1.1 says the criteria will be used to assess "development" proposals for multi-unit residential within all designations. Further the OP definition of "development" explicitly includes in subsection (a) – a change in land use requiring Act approval, which includes, as is sought by the Proposal, a ZBLA or OPA. Therefore, it is reasonable to conclude these criteria are relevant to question the appropriateness of redesignation, and the only evidence before the Tribunal (opined by Mr. Handy) is that the criteria are met.

[49] Mr. Handy opined that the Proposal conforms to s. 9.3.4 (medium density residential policy) and s. 9.3.5 (high density residential policy).

[50] It was the opinion of Mr. Handy that the Strategic Goals of the City of planning for complete communities, utilizing existing infrastructure and amenities, pedestrian friendly and inclusion of active transportation and proximity to public transit, are met with the Proposal. The Proposal's fulfilling of these goals for Mr. Handy is indicative of good land-use planning in the public interest.

[51] In contrast, Mr. Romano opined that the current designation achieves the Strategic Goals of the City and the Proposal is an overdevelopment that is not required.

[52] Mr. Handy stated that the Urban Structure of the Proposal and set out by the City in its current *Low-Density Greenfield* designation is not static and are often blending and overlapping with other urban structures (examples being: Built-Up Area, Urban Growth Centres, Mixed Use Nodes etc.). It is the evolution of the area (including the approved 8-storey building across the street, not in the Built-Up Area but similar to as proposed in the Mixed-Use Node) and the Proposal's compact built form and ability to expand on

characteristics sought in Urban Structure in areas of walkability, active transportation and many others mentioned that support the increased density sought and that fulfill provincial interests and City Strategic Goals.

[53] Mr. Romano opined the proposed ZBLA provides for an increased intensity of development which does not conform to the OP policy framework and conflicts with provincial policy.

[54] Mr. Handy opined that the Proposal does not conflict with provincial policy and as opined conforms and is consistent with provincial interests. Further conforming with the City OP and strategically developing the Site in an appropriate well thought out design as follows:

- a) "Specialized High-Density Apartment" (R.4B-22(H)) Zone on the north end of the Site that is part of the Mixed Use Node.
- b) "Specialized General Apartment" (R.4A-55(H)) Zone on the mid-rise apartments in the middle of the Site; and
- c) "Specialized Cluster Townhouse" (R.3-66(H)) Zone on the southerly end of the residential portion of the Site.
- d) The most southerly portion of the Site is proposed to be zoned "Neighbourhood Park (P.2) Zone" for the proposed Neighbourhood Park, and a small portion of land along the woodlot on the westerly side of the Site is proposed to be rezoned to "Conservation Land (P.1) Zone" to reflect the small area that acts as part of the 30 metre buffer to the adjacent heritage feature.

[55] Mr. Handy opined the ZBLA proposed further mitigates potential concerns by proposing a Holding Provision (H) be placed on the proposed residential zones to ensure that Whitelaw Road is redesigned and reconstructed prior to site development, also ensure the Owner submits a detailed Energy Strategy Report to show how the

proposed buildings will be designed and constructed in a manner that contributes to the City's Community Energy Initiative.

## **TRANSPORTATION**

### **Driveway to Arterial Road**

[56] Ms. Salvini provided the Tribunal her summary opinion that the Proposal with three entrance points was appropriate. The Whitelaw Road traffic concerns can be immediately remedied by appropriate road markings and signage and eventual road widening allowing for an additional right turn lane. Lastly, in her opinion, there are no unacceptable safety concerns created by the Proposal.

[57] Mr. Maria, opined in contrast, that the three entrances are inappropriate and specifically the Paisley Road access point does not conform to the City's Traffic Impact Study Guidelines (s. 3.8.1), as the demonstration of "need" has not been fulfilled.

[58] Ms. Kroetsch, also in support of the Appellant, testified that the "need" that Mr. Maria had referred to, was assessed by City staff as well as the Appellant's consultants. In her opinion, the Paisley Road access is an improvement to the Original Proposal and does conform to the City's design guidelines for driveway access to arterial roads, as well to the Geometric Design Guide for Canadian Road, issued by the Transportation Association of Canada (the "TAC").

[59] Mr. Maria opined that Ms. Salvini's chosen proxy sites were qualitatively different and had conditions differing from the intersection of Whitelaw Road and Paisley Road. Therefore, he opined the current transportation conditions are not appropriate to support the intensity of the Proposal and as such, creates a safety concern from his perspective.

## **Northbound Left Turn and Associated Traffic Concerns**

[60] Ms. Salvini opined that the future traffic operations at the Paisley and Whitelaw intersection would be an acceptable level in 2030 with a northbound left turn lane.

[61] Ms. Salvini testified that the addition of a northbound left turning lane would improve the overall traffic conditions on Whitelaw Road Northbound, while still allowing space for right turning vehicles to bypass and proceed onto Paisley Road (not optimal, but possible). The inclusion of a right-turning lane to bypass left-turning vehicles, would be optimal and be the best alternative for the intersection. These traffic improvements have already been identified by the City and Ms. Salvini opined are likely to occur in time with or without the Appellant's specific Proposal.

[62] Mr. Maria conceded to these opinions shared by Ms. Salvini in cross-examination.

[63] Ms. Kroetsch provided testimony and overall conclusions in line with Ms. Salvini's evidence and provided her professional opinion that:

- a) a westbound left turn lane can be accommodated at the Paisley Road and Whitelaw Road intersection; and
- b) that the design of the Site access to an arterial road (Paisley Road) complies with the standards and criteria outlined in the City of Guelph Development Engineering Manual (Version 2.0 dated January 2019), including the TAC manual (2017) requirements for stopping sight distance and decision site distance.

[64] Ms. Kroetsch also had prepared a drawing based on the City's collector road standards, which depicted alternatives with northbound traffic on Whitelaw Road, including the left turning lane with and without the right turning lane as well.

## Transportation Safety Issues

[65] On the issue of the transportation safety, it was the submission of the Appellant that specific evidence provided by Mr. Maria, pertaining to the Paisley and Whitelaw intersection was introduced in his testimony and was not in his witness statement, namely:

- i. the TAC manual requiring 200 m separation between intersections
- ii. And City engineering design guidelines requiring 100 m

[66] In cross-examination, Mr. Maria did acknowledge that the 200 m TAC requirement applies in “areas of intense development” which both Parties put forward this area is not. He also acknowledged that the intersection arrangement and distance is an existing condition that would have to be dealt with regardless of the intensity of development on the Subject Site.

[67] The Appellant additionally submitted that in cross-examination, Mr. Maria admitted that the separation distance more accurately speaks to driveways not intersections. Also, the 100 m requirement does not apply to multi-residential driveways.

[68] Ms. Kroetsch opined the Proposal has considered and has mitigated any transportation safety issues. More importantly in their opinion, any remaining perceived safety issues may be dealt with more appropriately at the site plan stage and the proposed Holding condition provides additional surety and opportunities to refine and deal with any safety issues, if any, are still deemed to exist or to be relevant by the City and their staff.

[69] Ms. Salvini shared the same opinion as Ms. Kroetsch and further opined that changes to the intersection of Whitelaw and Paisley have already been contemplated and reviewed by the City, irrespective of the current Proposal and concurred that the site Plan stage is when these technical aspects are often reviewed. She provided in her

witness reply statement (page 8) possible configurations and diagrams that have been submitted to the City.

### **Proposed Resident and Visitor Parking**

[70] The Proposal includes a parking provision of 1.1 spaces per unit, including 0.1 spaces per unit for the apartment uses (or 608 spaces for 552 units) and 1.2 spaces per unit including 0.2 spaces per unit for the townhouse units (or 152 spaces for 126 units). The total amount of parking proposed is 760 spaces including 678 spaces for residents and 82 spaces for visitors. The Proposal includes the same amount of resident parking and fewer spaces for visitors relative to the general ZBL requirements. The Proposal is deficient by 88 spaces.

[71] The witnesses further agreed that the residential parking rate was appropriate and concerns only remained with the visitor rate being deficient.

[72] Ms. Salvini opined the 0.1 slight parking reduction sought is appropriate and meets the mixed-use designation recognizing only residential uses are proposed. She opined the IBI study provided in evidence and the three proxy studies used to derive her findings demonstrate the sufficiency of the parking provided, aided by the Proposal's proximity to public transit and overall trend moving away from automobile dependency.

[73] Mr. Maria opined that the reduction in visitor parking is not supportable as the Proposal is in fact entirely residential as noted and the mixed-use philosophy of rapid visitor turn over does not apply. Also, he was not convinced of the suitability of the proxy sites studied and that their findings are comparable to the Proposal. Mr. Maria opined that transit service, active transport and walkability of the proposed site are quite inferior to the proxy sites studied.

## **PARTCIPANTS**

[74] Three participants were granted status for these proceedings. The Tribunal reviewed the participant statements provided and considered the information within its overall analysis of the matter.

[75] Five primary concerns were cited by the participants, which generally focused on:

- i. The Proposal's conformity to the City's urban structure, strategic goals and representation of good planning and in the public interest.
- ii. The form and content of the implementing ZBL and the Proposal's conformity to the OP.
- iii. Are there any adverse impacts created with the Proposal's approval to the surrounding area or adjacent properties?
- iv. Does the Proposal represent good planning?
- v. General transportation concerns.

Other concerns not relevant to land-use planning or beyond the scope and authority of the Tribunal were not dealt with by this Panel.

[76] Having heard the evidence provided from the witnesses during testimony and within their witness statements, the Tribunal is satisfied the concerns of the participants were raised and spoken to during the hearing.

## **RECOMMENDED CONDITIONS**

[77] Mr. Romano stated that the proposed conditions of approval are not appropriate. His primary concerns were that significant matters are left to a future date or the site plan stage, with no certainty as to their completion and timing.

[78] Mr. Handy conversely opined the conditions are appropriate and have been well thought out and encompass the interests of the Appellant while protecting the interests of the City. Significant matters are not left to future dates, they are conditions set out that are subject to the site plan which is appropriate and quite common in the development process. Further the conditions have been analyzed as well as contributed to by City staff and deemed supportable. Lastly, Mr. Handy opined that the ZBLA being subject to two Holding provisions is appropriate and mitigates potential concerns.

[79] Mr. Romano opined that the appeals should be dismissed, however in the event the Tribunal grant the appeals, in his opinion it would be appropriate that the Tribunal order that the proposed ZBL be amended to identify the exact land area that is to be zoned High-Density Residential and Medium-Density Residential for the purpose of ensuring that the number of units to be developed on each parcel is appropriately limited within the by-law.

[80] To the above, Mr. Handy's evidence was that the limit is defined by the map provided and as part of site plan approval, the Owner will have to show how the proposed number of units complies with the maximum density. Therefore, in his opinion the distinction between high and medium densities for the Proposal is well mapped out and does not require any further amending.

## **ANALYSIS AND FINDINGS**

[81] The Tribunal having heard the testimony and with its review of the witness statements, is more so persuaded by the opinions of Messrs. Handy and Moore than those offered by Mr. Romano on matters pertaining to the Act. The provincial interests of the Act are broad, higher level interests that the Tribunal finds have been met by the Proposal with the comprehensive testimony of Messrs. Handy and Moore, and their evidence presented on relevant criteria of s. 2 (a-s).

[82] The Tribunal has had regard to Council's decision on the matter, as set out in s. 2.1(a). With this, the Tribunal accepts the position of the Appellant and submissions by Counsel that there were no technical comments in support of Council's refusal, particularly in light of City staff's recommendation of approval. In its analysis, the Tribunal also has had regard to s. 2.1(b) and the information that Council had before it when making its decision. The Tribunal finds that the opinion provided by Mr. Handy that Council's concerns regarding density, traffic, hydrology and reduced parking were in fact addressed through various studies before Council, including Traffic Impact Study, Hydrogeological Study and various others that supported the approval of the Proposal.

[83] The Tribunal is tasked to determine conformity of the Proposal to the Growth Plan. From the evidence provided, the Tribunal is persuaded more so by the opinions of Mr. Handy and submissions of the Appellant, particularly on sections cited above but not limited only those.

[84] The Tribunal does not accept the position that the Proposal does not conform with the Growth Plan because it does not fall within the Growth Areas identified (*Built-Up Area*, the *City's Downtown*, an *Intensification Corridor* or in proximity of a *Major Transit Station*). The Proposal's failure to be within those areas at no point within the Growth Plan is deemed to be prohibited. The Tribunal finds conversely that it does fall within a Strategic Node and as directed "growth is focused within that node". The numerous other policies that the Proposal adheres to and evidence provided, satisfy the Tribunal on the conformity of the Proposal in its entirety with the Growth Plan.

[85] The Tribunal is not satisfied by the position "there is no need for the Proposal" and that the current land use designation of the Subject Lands already conforms to the Growth Plan. It is the Proposal itself that must be evaluated and its conformity to the policies of the Growth Plan.

[86] The Tribunal also accepts the opinion of Mr. Handy and the submissions of the Appellant, that the 50 persons and jobs per hectare imposed by the Province is a

minimum. Achieving that threshold does not preclude a municipality of surpassing it. It is in fact, good land-use planning to continue to implement good growth when proposed. Good land-use planning does not simply cease or limit growth because of a threshold, it continues to test the Proposal against the policies they are subject to.

[87] The Tribunal, when considering the appeals before it, is tasked to determine if what is proposed is consistent with the PPS. Whether, a less dense proposal would be consistent with the PPS is not before the Panel, nor does it preclude the Proposal before it. The merits of what is being proposed, and its consistency with the PPS, is the basis on which the Tribunal is to make its determination.

[88] The Tribunal is therefore persuaded more so by the opinions provided by Mr. Handy and finds that the Proposal is consistent with the PPS. The inclusion within the Mixed-Use Node and the range of units proposed, as well as the evolving area support this opinion. Further the amenities, public service facilities and infrastructure in place, combined with the pedestrian and active transportation incorporated within the Proposal, demonstrate consistency with provincial interests and with the PPS.

[89] The Tribunal has considered the evidence provided by the witnesses relevant to the City OP. In its analysis, the Tribunal has weighed into its findings, the opinion evidence of Mr. Handy (and conceded in cross-examination by Mr. Romano), which highlighted s. 9.3.3.4. This OP policy made it clear that the Subject Site has available to it and meets policy through bonussing (and being on an Arterial route) to develop up to 100 units per hectare with no OPA being required.

[90] The Tribunal does not accept the argument that the Proposal is outside the Urban Structure, thus does not conform to the City's growth strategy. These lines are not absolute without flexibility. They are strategic boundaries, with strategic concepts in mind. The Tribunal when considering how development has evolved to the north of the Subject Site finds it reasonable to conclude, if area developments do not meet the densities set out in that area (mid and high density residential) or in fact provide no

residential at all, it is logical to amend and shift some density to abutting areas identified to encompass growth in a similar manner and sharing many of the same geographical and already developed amenities.

[91] The Tribunal finds that the Proposal conforms to the City OP. The Tribunal is satisfied and is persuaded more so by the opinion evidence provided by Messrs. Handy and Moore, that was premised more so on the Proposal before the Tribunal, verses in contrast, the Subject Site's current designation meeting the objectives and goals of the OP, and of the increased density sought "not being needed".

[92] The Tribunal did consider Subsection V in s. 1.3.14, and the argument of "need", as it is indeed a subsection of policy in the OP. This differs to the weight of the argument when put up against the Growth Plan or PPS, where no policy consists of the "no need" argument. However, the Tribunal did consider the submission of the Appellant that specific subsections are not determinative or overriding.

[93] The Tribunal having considered the testimony and written statements of the witnesses pertaining to transportation prefer the opinions of Mmes. Salvini and Kroetsch.

[94] The third driveway access (Paisley Road) although discouraged, is not prohibited by policy and can be provided with safety concerns being addressed in the opinion of Mmes. Salvini and Kroetsch. The Tribunal finds the proposed three access points, are a better alternative in terms of simple functionality (three access points verses two). With the evidence provided by Ms. Kroetsch that compliance is provided with the City Transportation Manual and Canadian Transportation Association, the Tribunal finds this third access point to be appropriate.

[95] The Tribunal is satisfied that the intersection at Paisley Road and Whitelaw Road can function in a safe manner. Although improvements will benefit the current situation, the Tribunal also concurs that the site plan stage can address any technical concerns.

Further, the Tribunal is satisfied that the inclusion of a Holding provision included prior to any development to satisfy outstanding concerns, further eliminates any uncertainty and the need to demonstrate compliance at this time.

[96] Lastly, the Tribunal is satisfied that the issue of visitor parking has been addressed and accepts the conclusions of Ms. Salvini and the proxy site findings used in her analysis support the reduction. The Tribunal finds that the visitor parking reduction proposed is appropriate and does agree that the walkability as well as public and active transportation already in place and proposed are sufficient. The opinion of Ms. Salvini that likely improvements will follow in public transportation, with greater demand and active transportation improvements are incorporated within the Proposal itself were both satisfactory to the Tribunal.

## **Decision**

[97] The Tribunal has considered all information that the Parties have provided and is satisfied that the scale and built form proposed by the Appellant on the Subject Lands are appropriate for the area and compatible with the existing and evolving context of the area.

[98] The Tribunal is satisfied that all issues provided in the Procedural Order for this hearing have been addressed and the evidence provided supports the approval of the Proposal.

[99] The Tribunal having heard the testimony of the witnesses and having been provided submissions by Counsel and reviewing the evidence provided in its totality finds that the Appellant's Proposal and both the OPA and ZBLA sought, have regard to s. 2 of the Act as required. The Proposal is consistent with the PPS and conforms to the Growth Plan and the City OP and represents good land-use planning in the public interest.

**ORDER**

[100] **THE TRIBUNAL ORDERS** that the Official Plan Amendment appeal is allowed, and the Official Plan for the City of Guelph is amended as set out in Attachment 1 to this Order.

[101] **THE TRIBUNAL ORDERS** that the Zoning By-law Amendment appeal is allowed, and the City of Guelph is directed to amend By-law (1995) – 14864 as set out in Attachment 2 to this Order.

*“M. Russo”*

M. RUSSO  
MEMBER

*“Steven Cooke”*

STEVEN COOKE  
MEMBER

**Ontario Land Tribunal**

Website: [www.olt.gov.on.ca](http://www.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 (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

**PL200235 – Attachment 1**

**AMENDMENT NO. 71**

**TO THE**

**OFFICIAL PLAN**

**FOR THE CITY OF GUELPH**

## Schedule 'A'

### AMENDMENT NO. 71 TO THE OFFICIAL PLAN FOR THE CITY OF GUELPH

**PART A - THE PREAMBLE** provides the rationale and certain background information in support of the amendment. The Preamble does not constitute part of Amendment No. 71 to the Official Plan for the City of Guelph.

**PART B - THE AMENDMENT** consists of the specific text changes introduced to the Official Plan for the City of Guelph through the Amendment.

**PART C - THE APPENDICES** contains background data and public involvement associated with this amendment, but does not constitute part of Amendment No. 71 to the Official Plan for the City of Guelph.

#### PART A - THE PREAMBLE

##### PURPOSE

The purpose of Official Plan Amendment No. 71 is to redesignate the Low Density Greenfield Residential portion of 361 Whitelaw Road to the High Density Residential, Medium Density Residential and Open Space and Parks designations.

##### LOCATION

The subject lands affected by Official Plan Amendment No. 71, as proposed, are known municipally as 361 Whitelaw Road, and legally described as Part of the NE Half of Lot 5, Concession 1, Division 'B' (Geographic Township of Guelph), City of Guelph. The subject lands have an area of 7 hectares.

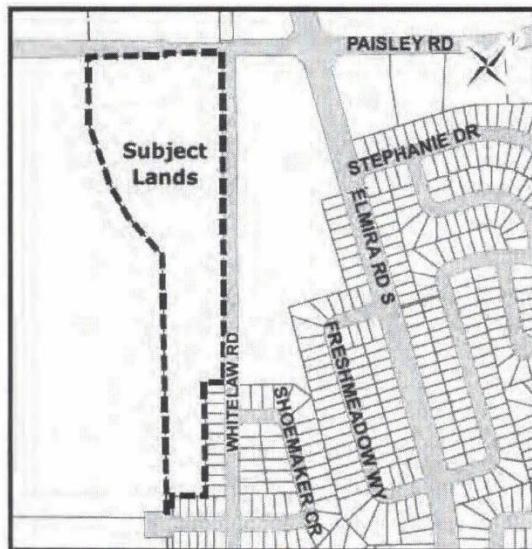
Surrounding land uses include:

- To the north: Paisley Road, beyond which are vacant commercial lands that are part of the Community Mixed Use Node;
- To the south: single detached dwellings along Whitelaw and Shoemaker Crescent;

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- To the east: Whitelaw Road, beyond which are currently vacant lands zoned "General Residential Apartment" that are expected to be developed in the near future together with a small woodlot; and,
- To the west: a wetland, woodlot and agricultural lands that are situated in the Township of Guelph-Eramosa.

The subject lands are located southwest of the intersection of Paisley Road and Whitelaw Road (see Location Map below).



**BASIS**

The Official Plan Amendment application was submitted to the City of Guelph in conjunction with an application to amend the Zoning By-law (File No. OZS18-005) on August 24, 2018. The Official Plan Amendment and Zoning By-law Amendment applications were deemed to be 'complete' on September 20, 2018. The applications were presented to Council at a Public Meeting held on December 10, 2018 and revised applications were submitted May 27, 2019 and a second Public Meeting was held July 10, 2019.

The following studies were submitted by the property owner in support of the Official Plan Amendment and Zoning By-law Amendment:

- Planning Justification Report, prepared by GSP Group, dated August, 2018;
- Urban Design Brief, prepared by GSP Group, dated August, 2018;
- Site Plan, prepared by GSP Group, dated August, 2018;
- Functional Servicing Brief, prepared by GM BluePlan Engineering, dated August 14, 2018;
- Sanitary Flow Monitoring Report, prepared by GM BluePlan Engineering, dated August, 2018;
- Environmental Impact Study, prepared by Natural Resource Solutions, dated August 2018;
- Permeameter Testing Results, prepared by Chung and Vander Doelen Engineering, dated July 27, 2018;
- Hydrogeological Study, prepared by GM BluePlan Engineering, dated August, 2018;
- Geotechnical Report, prepared by Chung and Vander Doelen Engineering, dated April 27, 2018;
- Transportation Impact Study, prepared by Salvini Consulting, dated August 2018;
- Archaeological Assessment, prepared by Stantec Consulting, dated July, 2018.

The Official Plan land use designation that applied to the subject lands (at the time the planning applications were submitted) is "Low Density Greenfield Residential". The "Low Density Greenfield Residential" land use designation

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permits a variety of residential uses including single and semi-detached dwellings, townhouses and apartments. The net density of development shall be a minimum of 20 units per hectare and a maximum of 60 units per hectare, together with a maximum height of 6 storeys.

The Official Plan Amendment will redesignate the portion of the site designated as "Low Density Greenfield Residential" to the "High Density Residential", "Medium Density Residential", and "Open Space and Parks" designations.

This Official Plan Amendment will permit a mixed density residential development containing 678 dwelling units together with a neighbourhood park.

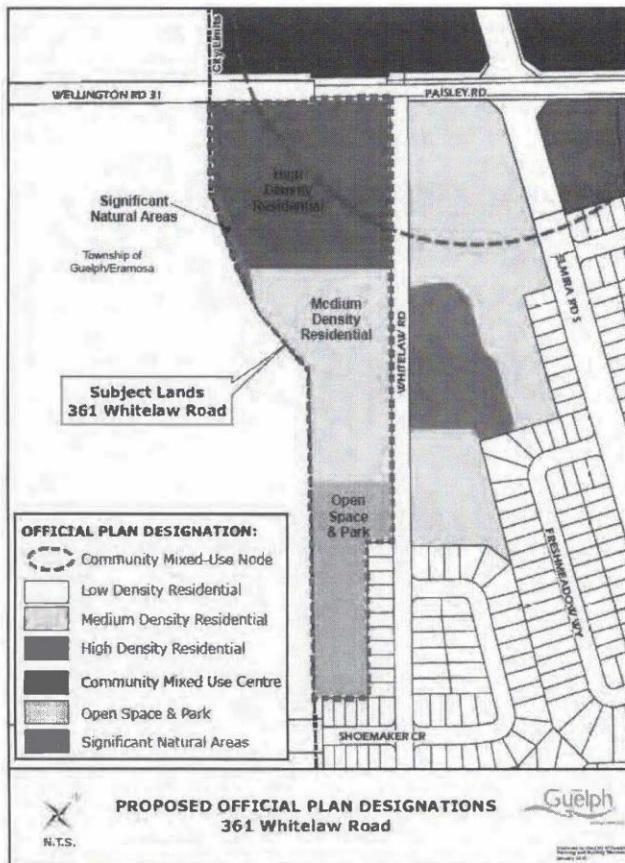
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#### PART B - THE AMENDMENT

All of this section entitled "Part B - The Amendment," constitutes Amendment No. 71 to the Official Plan for the City of Guelph.

##### Details of the Amendment

The Official Plan for the City of Guelph is amended by altering Schedule 2: Land Use Plan for property municipally known as 361 Whitelaw Road to redesignate the portion of the site designated as Low Density Greenfield Residential to High Density Residential, Medium Density Residential and Open Space and Parks, as shown on the following excerpt from Schedule 2:



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**PART C - THE APPENDICES**

The following appendices do not form part of Amendment No. 71, but are included as information supporting the amendment.

Appendix 1: Public Participation

Appendix 2: February 10, 2020 Planning Staff Decision Report No. IDE  
2020-013

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**APPENDIX 1**  
**TO OFFICIAL PLAN AMENDMENT NO. 71**

**PUBLIC PARTICIPATION**

August 24, 2018	Official Plan (OP) and Zoning By-law (ZBL) amendment applications received by the City of Guelph
September 20, 2018	OP/ZBL amendment applications deemed complete
October 4, 2018	Notice of Complete Application for OP/ZBL amendment mailed to prescribed agencies, City departments and surrounding property owners within 120 metres
October 5, 2018	Notice sign for OP/ZBL amendment applications placed on property
November 15, 2018	Notice of Public Meeting for OP/ZBL amendment advertised in the Guelph Mercury Tribune
November 15, 2018	Notice of Public Meeting for OB/ZBL amendment mailed to prescribed agencies, City departments and surrounding property owners within 120 metres
December 10, 2018	Statutory Public Meeting of Council for OP/ZBL amendment applications
May, 2019	Revised OP/ZBL amendment application received by the City of Guelph
June 11, 2019	Revised application circulated to agencies, City departments and mailed to surrounding property owners within 120 metres
June 13, 2019	Notice of Public Meeting for revised OP/ZBL amendment advertised in the Guelph Mercury Tribune
July 10, 2019	2 <sup>nd</sup> Statutory Public Meeting of Council for OP/ZBL amendment applications
January 20, 2020	Notice of Decision Meeting sent to parties that commented or requested notice
February 10, 2020	City Council Meeting to consider staff recommendation

**PL200235 – Attachment 2****THE CORPORATION OF THE CITY OF GUELPH****By-law Number (2020)-20480**

A by-law to amend By-law Number (1995)-14864, as amended, known as the Zoning By-law for the City of Guelph as it affects property known municipally as 361 Whitelaw Road and legally described as Part of the NE Half of Lot 5, Concession I, Division 'B' (Geographic Township of Guelph), City of Guelph (OZS18-005).

WHEREAS Section 34(1) of The Planning Act, R.S.O. 1990, c.P.13 authorizes the Council of a Municipality to enact Zoning By-laws;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF GUELPH ENACTS AS FOLLOWS:**

1. By-law Number (1995)-14864, as amended, is hereby further amended by transferring property legally described as Part of the NE Half of Lot 5, Concession I, Division 'B' (Geographic Township of Guelph), City of Guelph, municipally known as 361 Whitelaw Road, from the UR (Urban Reserve) Zone and A (Agriculture) Zone to an R.4B-22(H) (Specialized High Density Apartment) Zone, R.4A-55(H) (Specialized General Apartment Zone, R.3A-66(H) (Specialized Cluster Townhouse) Zone, P.I (Conservation Land) Zone and P.2 (Neighbourhood Park) Zone.
2. Section 5.4.3.2 of By-law Number (1995)-14864, as amended, is hereby further amended by adding a new subsection 5.4.3.2.22.

5.4.3.2.22 **R.4B-22(H)**

361 Whitelaw Road

As shown on Defined Area Map 5 of Schedule 'A' of this *By-law*.

5.4.3.2.22.1 **Permitted Uses**

Despite Section 5.4.1.2., the following *Uses* shall be permitted

- *Apartment Building*
- *Cluster Townhouses* attached to an *Apartment Building*
- *Accessory Uses* in accordance with Section 4.23
- *Home Occupation* in accordance with Section 4.19

5.4.3.2.22.2 **Regulations**

In accordance with Section 4 (General Provisions) and Section 5.4 and Table 5.4.2 (Regulations Governing R.4 Zones) of *By-law* (1995)-14864, as amended, with the following exceptions:

5.4.3.2.22.2.1 **Maximum Building Height**

Notwithstanding Table 5.4.2. Row 10, the maximum *Building Height* within 120 metres of the intersection along Paisley Road and 100 metres from the intersection along Whitelaw Road as measured along the streetline shall be 9 *Storeys* and the maximum *Building Height* shall be 8 *Storeys* at all other locations, and in accordance with Sections 4.16, 4.18.

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of By-law Number (2020)-20480**

**5.4.3.2.22.2.2 Maximum Front Yard and Exterior Side Yard**

Notwithstanding Table 5.4.2, Row 7, the maximum *Front Yard* or *Exterior Side Yard* facing Paisley Road shall be 8 metres and the maximum *Front Yard* or *Exterior Side Yard* facing Whitelaw Road shall be 20 metres.

**5.4.3.2.22.2.3 Minimum Rear Yard**

Notwithstanding Table 5.4.2, Row 9, the minimum *Rear Yard* shall be 14 meters, measured from the westerly property line.

**5.4.3.2.22.2.4 Minimum Side Yard**

Notwithstanding Table 5.4.2, Row 8, the minimum *Side Yard* shall be 3 metres.

**5.4.3.2.22.2.5 Minimum Distance between Buildings**

Notwithstanding Sections 5.4.2.2 and Table 5.4.2, Row 11, the minimum distance between *Apartment Buildings* shall be 15 metres.

**5.4.3.2.22.2.6 Minimum Landscaped Site Gateway**

That the area within 30 metres of the intersection along Whitelaw Road and within 50 metres of the intersection along Paisley Road as measured along the streetline shall be used only for gateway, entryway, and landscaping purposes, acting as the "Landscaped Site Gateway".

**5.4.3.2.22.2.7 Maximum Building Length**

The maximum length of an *Apartment Building* shall be 60 metres.

**5.4.3.2.22.2.8 Minimum Stepback of Upper Storeys of Apartment Buildings**

The upper *Storeys* of an *Apartment Building* shall have additional minimum stepbacks as follows:

The adjacent wall of any *Apartment Building* facing the Landscaped Site Gateway area as set out in Section 5.4.3.2.22.2.6 of this bylaw, shall have a *Stepback* of an additional 3.0 metres above the fourth *Storey*, and a further 3.0 metres above the seventh *Storey*.

The adjacent wall of any *Apartment Building* facing Whitelaw Road shall have a *Stepback* of an additional 1.5 metres above the fourth *Storey*, and a further 1.5 metres above the seventh *Storey*.

The adjacent wall of any *Apartment Building* facing Paisley Road shall have a *Stepback* of an additional 1.5 metres above the fourth *Storey*, and a further 3.0 metres above the seventh *Storey*.

**5.4.3.2.22.2.9 Minimum Off-Street Parking**

Notwithstanding Section 4.13 and Table 5.4.2, Row 14, the minimum required parking for *Apartments* shall be 1.0 *Parking Space* per unit plus 0.1 spaces per unit for visitor parking. No additional *Parking Spaces* above the minimum shall be permitted unless such parking is located in a parking structure.

**5.4.3.2.22.2.10 Off-Street Parking Location**

A maximum of 10% of the required parking may be permitted at grade, in surface *Parking Areas*.

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of By-law Number (2020)-20480**

**5.4.3.2.22.2.11 Minimum Parking Space Dimensions**

Notwithstanding Section 4.13.3.2.2, the minimum *Parking Space* dimensions for at-grade and below-grade spaces shall be 2.75 metres by 5.5 metres.

**5.4.3.2.22.2.12 Holding Provision**

**Purpose:**

To ensure that development of the subject lands does not proceed until the following conditions have been met to the satisfaction of the *City* related to the subject development:

**Conditions:**

1. The completion of the design and reconstruction of Whitelaw Road including but not be limited to vertical grade changes, curb/gutter, boulevard, *Municipal Services* and sidewalk.
2. That the Owner complete an Energy Strategy Report that shows how the proposed development addresses the City's Community Energy Initiative, to the satisfaction of the General Manager of Planning and Building Services.
3. Section 5.4.3.1 of By-law Number (1995)-14864, as amended, is hereby further amended by adding a new subsection 5.4.3.1.55:

**5.4.3.1.55 R.4A-55(H)**

361 Whitelaw Road

As shown on Defined Area Map Number 5 of Schedule "A" of this *By-law*.

**5.4.3.1.55.1 Permitted Uses**

Despite Section 5.4.1.2., the following *Uses* shall be permitted

- *Apartment Building*
- *Cluster Townhouse* in accordance with Section 5.3, and Section (Specialized Townhouse) of this *By-law*.
- *Stacked Townhouse* in accordance with Section 5.3, and Section 5.3.3.1.66 of this *By-law*.
- *Back to Back Townhouse* in accordance with Section 5.3, and Section 5.3.3.1.66 of this *By-law*.
- *Stacked Back to Back Townhouse* in accordance with Section 5.3, and Section 5.3.3.1.66 of this *By-law*.
- *Home Occupation* in accordance with Section 4.19
- *Accessory Uses* in accordance with Section 4.23

**5.4.3.1.55.1.1 The following definitions shall apply in the R.4A-55 Zone:**

***Back-to-Back Townhouse:*** means a *Building* where each *Dwelling Unit* is divided vertically by common walls, including a common rear wall and common side wall, and has an independent entrance to the *Dwelling Unit*

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of By-law Number (2020)-20480**

from the outside accessed through the *Front Yard*, *Side Yard* or *Exterior Side Yard* and does not have a *Rear Yard*.

**Stacked Back-to-Back Townhouse:** means a *Building* where each *Dwelling Unit* is divided vertically by common walls, including a common rear wall and common side wall, and stacked vertically, one *Unit* over another. Each *Unit* has an independent entrance to the *Dwelling Unit* from the outside accessed through the *Front Yard*, *Side Yard* or *Exterior Side Yard* and does not have a *Rear Yard*.

**5.4.3.1.55.2 Regulations**

**5.4.3.1.55.2.1 Maximum Building Height**

Notwithstanding Table 5.4.2 Row 10, the maximum *Building Height* for *Apartment Buildings* shall be 6 *Storeys*.

**5.4.3.1.55.2.2 Minimum Stepback of Upper Storeys of Apartment Buildings**

The adjacent wall of any *Apartment Building* facing Whitelaw Road shall have a *Stepback* of an additional 1.5 metres above the fourth *Storey*.

**5.4.3.1.55.2.3 Minimum Distance between Buildings**

Notwithstanding Sections 5.4.2.2 and Table 5.4.2, Row 11, the minimum distance between *Apartment Buildings* shall be 15 metres, and 10 metres between any *Apartment Building* and *Townhouse Building*.

**5.4.3.1.55.2.4 Minimum Off-Street Parking**

Notwithstanding Section 4.13 and Table 5.4.2, Row 14, the minimum required parking for *Apartment Units* shall be 1.0 *Parking Space* per *Unit* plus 0.1 *Parking Space* per *Unit* for visitor parking. No additional *Parking Spaces* above the minimum shall be permitted unless such parking is located in a parking structure.

Notwithstanding Section 4.13 and Table 5.3.2, Row 16, the minimum required parking for *Townhouse Units* shall be 1.0 *Parking Space* per *Unit* plus 0.2 spaces per unit for visitor parking.

**5.4.3.1.55.2.5 Off-Street Parking Location**

A maximum of 10% of required parking for *Apartment Units* may be permitted at grade, in surface *Parking Areas*.

**5.4.3.1.55.2.6 Minimum Parking Space Dimensions**

Notwithstanding Section 4.13.3.2.2, the minimum *Parking Space* dimensions for at grade and below grade spaces shall be 2.75 metres by 5.5 metres.

**5.4.3.1.55.2.7 Maximum Front Yard**

The maximum *Front Yard* for *Buildings* located adjacent to Whitelaw Road shall be 6 metres.

**5.4.3.1.55.2.8 Minimum Rear Yard**

Notwithstanding Table 5.4.2, Row 9, the minimum *Rear Yard* shall be 10 metres, measured from the westerly property line.

**5.4.3.1.55.2.9 Minimum Side Yard**

Notwithstanding Table 5.4.2, Row 8, the minimum *Side Yard* shall be 3

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of By-law Number (2020)-20480**

metres.

**5.4.3.1.55.2.10 Holding Provision**

Purpose:

To ensure that development of the subject lands does not proceed until the following conditions have been met to the satisfaction of the *City* related to the subject development:

Conditions:

1. The completion of the design and reconstruction of Whitelaw Road including but not be limited to vertical grade changes, curb/gutter, boulevard, *Municipal Services* and sidewalk.
2. That the Owner complete an Energy Strategy Report that shows how the proposed development addresses the City's Community Energy Initiative, to the satisfaction of the General Manager of Planning and Building Services.

4. Section 5.3.3.1 of By-law Number (1995)-14864, as amended, is hereby further amended by adding a new subsection 5.3.3.1.66:

**5.3.3.1.66 R.3A-66(H)**

361 Whitelaw Road

As shown on Defined Area Map Number 5 of Schedule "A" of this *By-law*.

**5.3.3.1.66.1 Permitted Uses**

Notwithstanding 5.3.1.1, the following *Uses* shall be permitted:

- *Cluster Townhouse*
- *Stacked Townhouse*
- *Back to Back Townhouse*
- *Stacked Back to Back Townhouse*
- *Home Occupation* in accordance with Section 4.19
- *Accessory Uses* in accordance with Section 4.23

**5.3.3.1.66.1.1 The following definitions shall apply in the R.3A-66 Zone:**

*Back-to-Back Townhouse:* means a *Building* where each *Dwelling Unit* is divided vertically by common walls, including a common rear wall and common side wall, and has an independent entrance to the *Dwelling Unit* from the outside accessed through the *Front Yard*, *Side Yard* or *Exterior Side Yard* and does not have a *Rear Yard*.

*Stacked Back-to-Back Townhouse:* means a *Building* where each *Dwelling Unit* is divided vertically by common walls, including a common rear wall and common side wall, and stacked vertically, one *Unit* over another. Each *Unit* has an independent entrance to the *Dwelling Unit* from the outside accessed through the *Front Yard*, *Side Yard* or *Exterior Side Yard* and does not have a *Rear Yard*.

**5.3.3.1.66.2 Regulations**

**5.3.3.1.66.2.1 Maximum Density**

Notwithstanding 5.3.2.6 and Table 5.3.2 Row 20, the maximum *Density* for all permitted *Townhouses* shall be a total of 80 *Units* per hectare.

**5.3.3.1.66.2.2 Minimum Lot Area per Dwelling Unit**

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Notwithstanding Table 5.3.2 Row 3, minimum *Lot* area per *Dwelling Unit* shall be 120 square metres.

**5.3.3.1.66.2.3 Maximum *Building Height***

Notwithstanding Table 5.3.2 Row 9, maximum *Building Height* shall be 4 *Storeys*, and in accordance with Section 4.16 and 4.18.

**5.3.3.1.66.2.4 Maximum *Building Length***

The maximum *Building* length for all types of *Townhouse* blocks shall be 56 metres.

**5.3.3.1.66.2.5 Minimum Distance between *Buildings***

Notwithstanding 5.3.2.3 and Table 5.3.2, Row 10, the minimum distance between *Townhouse Buildings* shall be 5 metres, and 10 metres between any *Apartment Building* and *Townhouse Building*.

**5.3.3.1.66.2.6 Maximum *Front Yard***

The maximum *Front Yard Setback* for *Buildings* located adjacent to Whitelaw Road shall be 6 metres.

**5.3.3.1.66.2.7 Minimum *Rear Yard***

Notwithstanding Section 5.3.2.2 and Table 5.3.2, Row 10, the minimum *Rear Yard* shall be 10 metres, measured from the westerly property line.

**5.3.3.1.66.2.8 Minimum *Side Yard***

Notwithstanding Table 5.4.2, Row 8, the minimum *Side Yard* shall be 3 metres.

**5.3.3.1.66.2.9 Minimum Off-Street Parking**

Notwithstanding Section 4.13 and Table 5.3.2 Row 16, the minimum required parking shall be 1.0 *Parking Space per Unit* plus 0.2 *Parking Spaces per Unit* for visitor parking.

**5.3.3.1.66.2.10 Minimum *Unit* Width**

The minimum *Unit* width for a *Back to Back Stacked Townhouse Unit* with an integrated attached *Garage* is 7 metres.

**5.3.3.1.66.2.11 Holding Provision**

Purpose:

To ensure that development of the subject lands does not proceed until the following conditions have been met to the satisfaction of the *City* related to the subject development:

Conditions:

1. The completion of the design and reconstruction of Whitelaw Road including but not be limited to vertical grade changes, curb/gutter, boulevard, *Municipal Services* and sidewalk.
2. That the Owner complete an Energy Strategy Report that shows how the proposed development addresses the City's Community Energy Initiative, to the satisfaction of the General Manager of Planning and Building Services.
5. Schedule "A" of By-law Number (1995)-14864, as amended, is hereby further amended by deleting Defined Area Map 5 and substituting a new Defined Area Map 5 attached hereto as Schedule "A".

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of By-law Number (2020)-20480**

6. Where notice of this By-law is given in accordance with the Planning Act, and where no notice of objection has been filed within the time prescribed by the regulations, this by-law shall come into effect. Notwithstanding the above, where notice of objection has been filed within the time prescribed by the regulations, no part of this by-law shall come into effect until all of such appeals have been finally disposed of by the Local Planning Appeals Tribunal.

**PASSED this TENTH day of FEBRUARY, 2020.**

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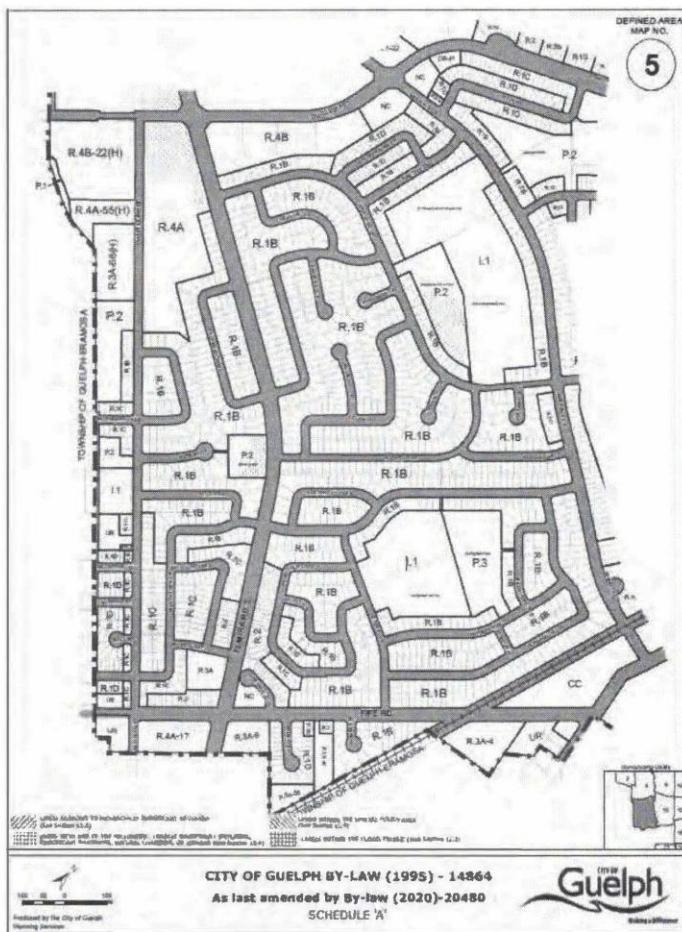
**CAM GUTHRIE - MAYOR**

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**DYLAN McMAHON - DEPUTY CITY CLERK**

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Schedule "A"



**EXPLANATION OF PURPOSE AND EFFECT FOR BY-LAW NUMBER (2020)-20480**

1. By-law Number (2020)-20480 has the following purpose and effect:

This By-law authorizes a Zoning By-law Amendment affecting lands municipally known as 361 Whitelaw Road. The purpose of the proposed Zoning By-law amendment is to rezone the subject property from the UR (Urban Reserve) Zone and A (Agriculture) Zone to an R.4B-22(H) (Specialized High Density Apartment) Zone, R.4A-55(H) (Specialized General Apartment Zone, R.3A-66(H) (Specialized Cluster Townhouse) Zone, P.1 (Conservation Land) Zone and P.2 (Neighbourhood Park) Zone to permit the development of a mixed density residential development containing 678 units together with a neighbourhood park. The proposed Zoning By-law Amendment was considered by Guelph City Council at Public Meetings held on December 10, 2018 and on July 10, 2019 and a decision report was presented to Council on February 10, 2020. (City File: OZS18-005).

Further information may be obtained by contacting Katie Nasswetter, Senior Development Planner at 519-837-5616, extension 2356, City Hall, Guelph, Ontario.

Persons desiring to officially support or object to this Zoning By-law amendment must file their support or objection with the City Clerk, City Hall, Guelph, as outlined on the page entitled "Notice of Passing".

2. Key map showing the location of the lands to which By-law (2020)-20480 applies:

**KEY MAP**