

Staff Report

Report To: City Council
Report From: Dave Aston and Aleah Clarke, MHBC Planning
Meeting Date: March 27, 2023
Report Code: CS-23-037
Subject: Recommendation Report – ZBA No. 44 – 2275 16th Street East (Telfer Creek Square)

Recommendations:

THAT in consideration of Staff Report CS-23-037 respecting Zoning By-law Amendment No. 44 at 2275 16th Street East to permit a mixed-use development that includes multi-unit commercial, multi-unit residential and single-purpose commercial buildings, City Council:

1. In consideration of the staff reports, recommendations, technical reports, and oral and written submissions, finds that the application is consistent with the Provincial Policy Statement; conforms to the goals and objectives of the City's Official Plan; and represents good planning; and
2. Directs staff to bring forward a by-law to pass Amendment No. 44 to the City's Zoning By-law No. 2010-078, as amended and give notice in accordance with Section 34 of the Planning Act.

Highlights:

- A complete application for a Zoning By-law Amendment (ZBA 44) has been submitted by Sydenham Square Inc. (Muzammil Dewan) through Ron Davidson Land Use Planning for a mixed-use development at 2275 16th Street East.
- The application proposes the development of a mixed-use development that includes three multi-unit commercial buildings, two single-purpose

commercial buildings and three 3-storey (40 units) multi-unit residential buildings with a total of 120 residential units. The proposal also includes the construction of parking areas, an internal road system, landscaping, and a stormwater management system. The development is proposed to be accessed via a new public street or private roadway on the south side of 16th Street East at the west edge of the subject lands.

- The effect of the application is to amend the area currently zoned as 'Rural' (RUR) to 'Retail Commercial Holding with Special Provisions 14.XXX' (C2(H)14.XXX) and Open Space (OS).
- This report provides an analysis of the proposed zoning amendment and supporting documents together with staff and agency comments and makes a recommendation to Council regarding the application. Comments from the public and agency partners are also considered.
- Staff recommend approval of the application.

Strategic Plan Alignment:

Legislated review process.

Climate and Environmental Implications:

This supports the objectives of the City's Corporate Climate Change Adaptation Plan by considering climate adaptation in the development of the City's strategies, plans, and policies.

Of special note:

- This is the first zoning to implement the Official Plan requirement for electric vehicle charging stations;
- The development density maximizes the use of land and servicing;
- The development is walkable and transit-supportive.
- Storm water management and the implementation of the EIS ensures the protection of natural heritage features.

Previous Report/Authority:

[City of Owen Sound Official Plan \(2021\)](#)

[City of Owen Sound Zoning By-law 2010-078, as amended](#)

Background & Proposal:

A complete application for a Zoning By-law Amendment (ZBA 44) has been submitted by Sydenham Square Inc. (Muzammil Dewan) through Ron Davidson Land Use Planning for a mixed-use development at 2275 16th Street East.

Property Description

The subject property is located at 2275 16th Street East on the south side of 16th Street East at the eastern portion of the City's East City Commercial area. Surrounding land uses include:

- North: Vacant East City Commercial parcels, East Ridge Business Park (including Vandolder Home Team);
- East: Rail Trail, Hazard lands associated with Telfer Creek and vacant lands designated Open Space and vacant lands designated East City Commercial;
- South: Hazard Lands, Open Space Lands & vacant lands designated Residential; and,
- West: Heritage Grove commercial development, future development residential lands, Telfer Creek draft approved subdivision & Grey Bruce Health Services (Owen Sound Hospital).

The subject lands are designated 'East City Commercial', 'Hazard Lands' and 'Open Space' in accordance with Schedule 'A' of the City's Official Plan (2021). The subject property is located in Phase I of the Sydenham Heights Planning Area and are designated 'East City Commercial', 'Hazard Land' and 'Open Space' according to Schedule 'A2'. The lands are zoned 'Rural' (RUR) and 'Hazard Lands' (ZH) in the City's Zoning By-law (2010-078, as amended).

For location context and surrounding land uses, please see the Orthophoto in Attachment 'A'. For the planning policy context, please see the Official Plan and Zoning Map in Attachment 'B'.

The Proposal

The concept site plan is attached as Attachment 'C'. The application for rezoning proposes the development of a mixed-use development that includes three multi-unit commercial buildings, two single-purpose commercial buildings, and three 3-storey 40-unit multi-unit residential buildings with a total of 120 residential units. The proposal also includes the construction of parking areas, an internal road system, landscaping, and a stormwater management system. The development is proposed to be accessed via a new private roadway on the south side and with access from 16th St E.

The effect of the application is to amend the area currently zoned 'Rural' (RUR) to 'Retail Commercial' Holding (C2 H) Zone subject to special provisions 14.XX and 'Open Space' (OS) Zone. The lands currently designated and zoned Hazard Lands (ZH) will remain. The Special Provisions are generally in accordance with the following:

Current Zoning	Proposed Zoning
<ul style="list-style-type: none">▪ Rural (RUR)▪ Hazard Lands (ZH)	<ul style="list-style-type: none">▪ Retail Commercial Holding with Special Provisions 14.XXX (C2(H)14.XXX)▪ Hazard Lands (ZH)▪ Open Space (OS)

The proposed special provisions will implement the policies of the City's Official Plan with respect to the East City Commercial policies, specifically Section 3.5.2.5 which require a market study for commercial uses of certain gross floor areas (GFA), among other matters.

Submission & Process Details

As part of a complete application, the applicant has submitted the following materials for consideration:

Submission Item Title	Submission Item Detail
Planning Report	Prepared by Ron Davidson Land Use Planning Consultants dated November 25, 2022

Submission Item Title	Submission Item Detail
Conceptual Site Plan	Prepared by G.M. Diemert Architect Inc. dated January 27, 2023
Transportation Impact Study	Prepared by Paradigm Transportation Solutions Ltd dated November 2022.
Urban Design Study	Prepared by G.M. Diemert Architect Inc. dated November 23, 2022
Solar Study	Prepared by G.M. Diemert Architect Inc. dated November 23, 2022
Geotechnical Investigation	Prepared by GM BluePlan dated May 3, 2021
Hydrogeological Review & Impact Assessment	Prepared by GM BluePlan dated November 24, 2022
Servicing Feasibility Study	Prepared by GM BluePlan dated November, 2022
Civil Engineering Drawings Existing Conditions Servicing Plan Grading & Drainage	Prepared by GM BluePlan dated November 10, 2022
Floodplain Analysis Report	Prepared by GM BluePlan dated March 2021
Stage 1 and 2 Archaeological Assessments & Entry into the Ontario Public Register of Archaeological Reports	Prepared by Archaeological Research Associates Ltd dated September 20, 2022
Natural Heritage Environmental Impact Study	Prepared by AWS Environmental Consulting dated April, 2021.

The applicant engaged the City in the Pre-consultation process in August 2020. Subsequently, the process relating to the formal application has proceeded as follows:

Date	Step	Days
November 20, 2022	Submission of complete application and fees	1
December 12, 2022	Letter of Complete Application to applicant & Request for Comments	22
December 22, 2022	Notice of Complete Application	32
January 9, 2023	Notice of Public Meeting	50
January 30, 2023	Public Meeting & Technical Report	71
March 27, 2023	Recommendation Report	127

The Planning Act provides for a total of 90 days to process a ZBA application. The timeline provided under the Planning Act has been exceeded. After July, 2023 under Bill 23, the City would be required to refund a specified percentage of the application fee.

Technical Review:

The Planning Act and the City’s Official Plan establish criteria for evaluating an application to amend the City’s Zoning Bylaw. In making land use planning decisions, Council must consider the matters of Provincial interest as described in Section 2 of the Planning Act. Section 3 of the Planning Act also prescribes that the decision of Council on a planning matter shall be consistent with the policy statements issued under the Act, which includes, among others, the Provincial Policy Statement.

The City’s Official Plan (OP 9.1.1.2) provides that the City may amend the Zoning Bylaw where in the opinion of Council, sufficient justification exists. Amendments must conform to the policies of the Official Plan. When considering an amendment, the City should consider the goals, objectives, and policies of the Official Plan. Additionally, decisions should consider the compatibility with adjacent uses of land and servicing (transportation, sewer, and water).

The application has been subject to review by the City's Development Team and external commenting agencies. Public notice was given, and public input has been considered in the overall process and included in this report. A peer review was completed by SAAR Environmental Inc. with respect to matters of natural heritage.

All applicable policies, standards, and review comments are fulsomely reviewed in this Staff Recommendation Report.

This report is intended to describe the proposed Zoning By-law Amendment and review the consistency of the application with the key policy considerations relevant to the evaluation of the application and provide a recommendation to Council.

Provincial Policy Statement

In making land use planning decisions, Council must consider the matters of Provincial interest as described in Section 2 of the Planning Act. The matters described include, among others, the protection of natural areas, supply and efficient use of water, adequate provision of transportation, sewage and water services as well as waste management, orderly development and healthy communities, accessibility for persons with disabilities; the adequate provision of a full range of housing, including affordable housing; the protection of public health and safety; appropriate location of growth and development; the promotion of development that is designed to be sustainable, to support public transit and oriented to pedestrians.

The 2020 Provincial Policy Statement (PPS) provides direction on matters of provincial interest. Municipal decisions on planning matters are required to be consistent with the PPS.

The PPS supports a comprehensive, integrated, and long-term approach to planning and recognizes linkages among policy areas. The PPS is to be read in its entirety and relevant policies applied to each situation. When more than one policy is relevant, decision-makers must consider all relevant policies and how they work together.

The following PPS policies are highlighted concerning this application:

1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

1.1.1 Healthy, liveable and safe communities are sustained by:

- a) *promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;*
- b) *accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;*
- c) *avoiding development and land use patterns which may cause environmental or public health and safety concerns;*
- d) *avoiding development and land use patterns that would prevent the efficient expansion of settlement areas in those areas which are adjacent or close to settlement areas;*
- e) *promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs;*
- f) *improving accessibility for persons with disabilities and older persons by addressing land use barriers which restrict their full participation in society;*
- g) *ensuring that necessary infrastructure and public service facilities are or will be available to meet current and projected needs;*
- h) *promoting development and land use patterns that conserve biodiversity; and,*
- i) *preparing for the regional and local impacts of a changing climate.*

1.1.3.1 Settlement areas shall be the focus of growth and development.

1.1.3.2 Land use patterns within settlement areas shall be based on densities and a mix of land uses which:

- a) *efficiently use land and resources;*
- b) *are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;*
- c) *minimize negative impacts to air quality and climate change, and promote energy efficiency;*

- d) prepare for the impacts of a changing climate;*
- e) support active transportation;*
- f) are transit-supportive, where transit is planned, exists or may be developed; and*
- g) are freight-supportive.*

1.1.3.6 New development taking place in designated growth areas should occur adjacent to the existing built-up area and should have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities.

Comment

The proposal is located within the City's Settlement Area with access to full municipal services. The proposal includes three apartment buildings which will contribute to the range and mix of residential unit types available in the City. No development is proposed within the site's natural heritage features or the Bothwell's Creek floodplain. The subject lands front 16th Street East which is an existing transit route which currently extends to the commercial development immediately west of the subject lands. 16th Street East also includes an existing sidewalk on the south side of the street which provides a pedestrian connection to the subject lands. A sidewalk extension along the frontage of the subject will be addressed through Site Plan Approval. The new private entrance roadway will also include a pedestrian route.

The proposed development represents a logical extension of the built-up area and features a mix of uses and compact built form which represents efficient use of land and infrastructure.

1.4 Housing

1.4.3 Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area by:

- a) establishing and implementing minimum targets for the provision of housing which is affordable to low and moderate income households and which aligns with applicable housing and homelessness plans. However, where planning is conducted by an upper-tier municipality, the upper-tier municipality in consultation with the lower-tier*

- municipalities may identify a higher target(s) which shall represent the minimum target(s) for these lower-tier municipalities;*
- b) permitting and facilitating:*
- 1. all housing options required to meet the social, health, economic and well-being requirements of current and future residents, including special needs requirements and needs arising from demographic changes and employment opportunities; and*
 - 2. all types of residential intensification, including additional residential units, and redevelopment in accordance with policy 1.1.3.3;*
- c) directing the development of new housing towards locations where appropriate levels of infrastructure and public service facilities are or will be available to support current and projected needs;*
- d) promoting densities for new housing which efficiently use land, resources, infrastructure and public service facilities, and support the use of active transportation and transit in areas where it exists or is to be developed;*
- e) requiring transit-supportive development and prioritizing intensification, including potential air rights development, in proximity to transit, including corridors and stations; and*
- f) establishing development standards for residential intensification, redevelopment and new residential development which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety.*

Comment

The proposed development includes multi-unit residential buildings. The proposed residential development is located in an appropriate area to utilize existing transit and active transportation infrastructure on 16th Street East. The proposed development is also proposed to take a compact form which will efficiently utilize land and infrastructure, while introducing new housing units to the City.

1.5 Public Spaces, Recreation, Parks, Trails and Open Space

1.5.1 Healthy, active communities should be promoted by:

- a) planning public streets, spaces and facilities to be safe, meet the needs of pedestrians, foster social interaction and facilitate active transportation and community connectivity;*

- b) planning and providing for a full range and equitable distribution of publicly-accessible built and natural settings for recreation, including facilities, parklands, public spaces, open space areas, trails and linkages, and, where practical, water-based resources;*

Comment

The subject lands are located adjacent to an existing County recreational trail known as the "Rail Trail". The proposed development has been designed to include a trail which provides an active transportation connection to the "Rail Trail". The Hazard lands are proposed to be conveyed to the City for conservation, and the Open Space lands will also be conveyed to the City with the potential to be used for passive recreation uses. The details of the trail connection to the subject lands will be addressed through Site Plan Approval and ensure recommendations from the peer review are addressed.

The proposed rezoning to permit a mixed use development promotes active communities and creates connections to the surrounding pedestrian and trail network.

1.6 Infrastructure and Public Service Facilities

1.6.6.2 Municipal sewage services and municipal water services are the preferred form of servicing for settlement areas to support protection of the environment and minimize potential risks to human health and safety. Within settlement areas with existing municipal sewage services and municipal water services, intensification and redevelopment shall be promoted wherever feasible to optimize the use of the services.

1.6.6.7 Planning for stormwater management shall:

- a) be integrated with planning for sewage and water services and ensure that systems are optimized, feasible and financially viable over the long term;*
 - b) minimize, or, where possible, prevent increases in contaminant loads;*
 - c) minimize erosion and changes in water balance, and prepare for the impacts of a changing climate through the effective management of stormwater, including the use of green infrastructure;*
 - d) mitigate risks to human health, safety, property and the environment;*
 - e) maximize the extent and function of vegetative and pervious surfaces;*
- and*

- f) *promote stormwater management best practices, including stormwater attenuation and re-use, water conservation and efficiency, and low impact development.*

Comment

The subject lands are located within the City's urban area and full municipal service infrastructure and capacity is available for the proposed development.

The proposed SWM system meets quantity and quality requirements as identified in the Servicing Feasibility Study prepared by GM BluePlan and:

- Post-development peak flow rates discharging from the property are expected to be attenuated to less than pre-development peak flow rates for storm events.
- An emergency overland flow route will permit runoff to spill from the parking area at the southwesterly and north easterly corners of the parking area.
- An 80% TSS removal rate is expected to be provided achieving an enhanced level of stormwater quality treatment.
- An underground stone storage gallery will be provided to achieve temperature equalization prior to runoff draining from the site.

1.6.7 Transportation Systems

1.6.7.1 Transportation systems should be provided which are safe, energy efficient, facilitate the movement of people and goods, and are appropriate to address projected needs.

1.6.7.2 Efficient use should be made of existing and planned infrastructure, including through the use of transportation demand management strategies, where feasible.

1.6.7.3 As part of a multimodal transportation system, connectivity within and among transportation systems and modes should be maintained and, where possible, improved including connections which cross jurisdictional boundaries.

1.6.7.4 A land use pattern, density and mix of uses should be promoted that minimize the length and number of vehicle trips and support current and future use of transit and active transportation.

Comment

The proposed development is proposed to be accessed from 16th Street East. The applicant will need to work with the adjacent landowner through a shared access approach for a private or public road, subject to approval of a design and support by the City. The access will be required to provide sidewalks for pedestrian connections to 16th Street East.

A Transportation Impact Study (TIS) was completed to assess the impacts on the proposed development on the total traffic conditions of the area and the connection to 16th Street East. The assessment concluded that the development as proposed is appropriate, subject to the determination of the access design and implementation of the shared access between the landowners.

With respect to the new shared entrance road, between the subject lands and Heritage Grove to the west, the TIS notes:

- The new road will utilize stop control and does not require signalization;
- A northbound, dedicated left turn lane is required at the future road intersection with 16th St E;
- A dedicated northbound east and through lane is also required; and,
- A westbound left turn on 16th onto the shared entrance road.

These matters relating to the design and construction of the new shared entrance road will require mutual cooperation between the two adjacent developers. There is an existing agreement that requires this cooperation. These matters will be implemented through Site Plan Approval utilizing a Servicing Agreement.

The proposed development is located in close proximity to the existing public transit route on 16th Street East and this bus route could be extended to the subject lands in the future. Pedestrian facilities are also proposed internal to the subject lands and connections will be required to the existing sidewalk on 16th Street East and the existing bus route.

2.1 Natural Heritage

2.1.6 Development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements.

2.1.7 Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements.

2.1.8 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5, and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

Comment

Areas within the subject lands contain habitat for endangered species and fish habitat. The habitat of endangered species on the site includes a single Butternut sapling, which was approved for removal through an application under the Endangered Species Act and replacement planting will be undertaken on the subject lands. Fish Habitat was also identified on the subject lands and a 34 metre setback is proposed between the development limits and the fish habitat, with the exception of minor construction works needed for the below grade connection to the City's sanitary trunk line.

Adjacent lands to the proposed development contain significant woodlands, but these lands are separated from the proposed development property by Highway 26 and no direct or indirect ecological functions are identifiable within the study land. As such, no mitigative measures are required for the proposed site development.

The proposed development has been designed in accordance with provincial endangered species requirements and is appropriately setback from fish habitat. The development is consistent with the direction provided by the PPS for the protection of natural heritage. The EIS and peer review do recommend certain mitigation measures that will be implemented through Site Plan Approval including:

2.2 Water

2.2.2 Development and site alteration shall be restricted in or near sensitive surface water features and sensitive ground water features such that these features and their related hydrologic functions will be protected, improved or restored.

Mitigative measures and/or alternative development approaches may be required in order to protect, improve or restore sensitive surface water features, sensitive ground water features, and their hydrologic functions.

Comment

A tributary of the Bothwell Creek crosses the subject lands and a 120 metre constraint zone for a seep feature is identified on the subject lands through the completed Environmental Impact Study. Development within the constraint zone is required to demonstrate no adverse changes to groundwater flow patterns or impacts on the springs discharge waters for quality and quantity. A hydrogeological review was completed to assess the impacts of the proposed development on the constraint zone. The Hydrogeological review concluded that the proposed development in the constraint zone is not expected to cause impacts to the seep feature and no impacts to the tributary to Bothwell Creek and the associated seep are expected.

The proposed development includes a 50 metre naturalized setback to the Creek and seep feature and includes a stormwater management system that maintains flows to the creek, stone infiltration galleries, water quality controls, and run-off and ground flows to the buffer and tributary area. The overall groundwater elevations in the area are not anticipated to be influenced and as a result the seepage feature will remain pre- to post-development. The proposed development is not expected to impact the tributary of the Bothwell Creek and the development is consistent with the PPS water policies.

2.6 Cultural Heritage and Archaeology

2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.

Comment

A Stage 1 and 2 Archeological Assessment was conducted on the subject lands and found one site of Euro-Canadian artifacts which were determined to be of no further cultural heritage value or interest. As a result no further assessment was recommended within the project limits. The development has been shown to be consistent with the PPS.

3.0 Protecting Public Health and Safety

3.1 Natural Hazards

3.1.1 Development shall generally be directed, in accordance with guidance developed by the Province (as amended from time to time), to areas outside of:

- a) hazardous lands adjacent to the shorelines of the Great Lakes - St. Lawrence River System and large inland lakes which are impacted by flooding hazards, erosion hazards and/or dynamic beach hazards;*
- b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards; and*
- c) hazardous sites.*

Comment

A Floodplain analysis was undertaken for the subject lands to assess the floodplain of the tributary of Bothwell Creek on the subject lands. Grading will be undertaken on the subject lands to adjust the location of the Post Development Flood line and the Grey Sauble Conservation Authority (GSCA) 6m hazard setback from the Post Development Flood line will be achieved on the entire site for all buildings. The proposed development will be located outside of the post-development flood line for the Regional Storm Flood Event and the GSCA 6m setback, and the development is consistent with the PPS.

B: County of Grey Official Plan (2019)

The subject property is designated 'Primary Settlement Area' and 'Hazard Lands' in the County of Grey Official Plan (County OP).

Settlement Areas with full municipal services are the focus of most of the growth within the County. The County OP promotes a full range of residential, commercial, industrial, recreational, and institutional land uses within Primary Settlement Areas. Land Use policies and development standards are in accordance with the local Official Plan.

The County has been consulted on the proposal and County staff have no objection to the application subject to comments being received from the Ministry of Transportation regarding the requirement for noise mitigation or further study of the northern most residential building.

The County has also noted that no drainage should be diverted to the trail and access from the subject lands to the trail is preferred from public street crossings, but the steep embankments along 16th Street East could make this challenging. The City will work with the developer and the County during the Site Plan process to arrive at an acceptable solution for the topographical challenges relating to the new trail connection.

The proposal conforms to the policies of the County of Grey Official Plan (2019).

C: City of Owen Sound Official Plan (2021)

The subject property is designated 'East City Commercial', 'Hazard Lands' and 'Open Space' in the 2021 Owen Sound Official Plan (OP) as shown on Schedule 'A'.

The lands are located within the Sydenham Heights Planning Area – Phase I (A2). The Planning Area mapping in Schedule A2 mirrors the mapping of Schedule 'A' and designates the lands as 'East City Commercial', 'Hazard Lands' and 'Open Space'. The East City Commercial designation applies to the northern portion of the subject lands along the 16th St E frontage and the property boundary with the adjacent Heritage Grove development. The Hazard Lands designation recognizes a tributary to Telfer Creek which crosses the property diagonally from the southwest to the northeast. The Open Space designation applies to the southeast corner of the property which is adjacent to the Rail Trail and contains non-hazard lands.

East City Commercial

The East City Commercial designation generally applies to lands on the north and south side of 16th St E between 9th Ave E and the eastern City boundary at 28th Ave E and comprises the main eastern entrance to the City.

The principle planned function of the East City Commercial designation is to accommodate large format retail uses requiring relatively large sites in single or multiple-purpose layouts (Sec 3.5.1.1a) as well as high-density residential and non-ground oriented multiple dwelling units in combination with uses permitted in Section 3.5.1.1.a.

The following policies of the East City Commercial designation are applicable to the application:

3.5.2.1 The East City Area shall be developed in an orderly and coordinated manner to provide a cohesive and attractive pedestrian and vehicle oriented retail environment to serve the community and surrounding region.

3.5.2.2 The area shall be capable of providing both large-scale lots to accommodate large format retail uses and medium scale properties to accommodate service and support businesses.

3.5.2.3 Off-street vehicle parking areas shall be established at a rate that will adequately serve the related commercial facilities, including parking for all employees and customers. Parking areas and points of access are to be developed in accordance with Section 8.6.6 and relevant urban design guidelines for the East City Commercial Area.

3.5.2.4 In order to sustain the planned function for the East City Area, the City may limit the minimum and maximum gross floor area of any permitted use through the Zoning By-law.

3.5.2.5 For any application in the East City Commercial designation for the uses listed in Section 3.5.1.1 a) and b) that are less than 465 square metres and greater than 1,400 square metres, the City shall require the following information and studies acceptable to the City:

- a. A retail market analysis of the need for the proposed development and the impact of the proposed use on the commercial structure of the City and the County. Such a study shall confirm that:
 - i. Designated commercial property, suitable for the intended scale and type of development is not available within the River District Commercial area.*
 - ii. Available commercial property in the River District Commercial area is not economically viable for the intended scale and type of development.*
 - iii. The proposed increase in commercial floor space will not be premature by increasing the amount of commercial floor space in the City beyond the 5 year market demand.**
- b. The proposed development will not undermine the economic viability or planned function of a significant commercial component of the River District Commercial area or impair the function of a designated commercial district as identified in this Plan. An assessment of the traffic, land use, ecological and servicing impacts*

of the proposed use, including recommended infrastructure improvements necessary to accommodate the proposed use.

- c. Site development information to ensure high quality urban design, safe access for pedestrians and vehicles, on-site environmental controls, store size and function, and similar information necessary to assess the impact of the use on the area.*

Comment

The proposed development is a permitted use in the East City Commercial designation. The proposed Zoning By-law Amendment does not propose any amendments to the required commercial and residential parking rates and the development as proposed will satisfy the City's parking requirements, based on the level of detail provided.

3.5.2.6 Residential uses permitted in Section 3.5.1.1 (c) shall be subject to provision of the following:

- a. Adequate parking for residential and non-residential uses.*
- b. Appropriate buffering and/or integration of the residential uses and other permitted uses.*
- c. Analysis of land use compatibility considerations, such as noise and traffic.*
- d. Implementation of urban design policies, any approved urban design guidelines and objectives of this Plan.*

Comment

The proposed Zoning By-law Amendment proposes to include a Holding provision, which will not be removed until a satisfactory retail market analysis is conducted to satisfy Section 3.5.2.5 of the Official Plan. Detailed site development information will be reviewed through the future Site Plan Approval applications.

A Transportation Impact Study, Servicing Feasibility Study and Environmental Impact Study have been conducted to assess the proposed development. The assessments have confirmed that the proposed development will not have negative impacts on the natural heritage features on the subject lands or surrounding lands, and that the development can be adequately serviced from a transportation perspective through the provision of a new access. A Holding Provision will be incorporated into the Zoning By-

law Amendment to ensure that development is not permitted on the subject lands until site access has been established to the satisfaction of the City.

Additional mitigation measures were requested by SAAR Environmental to ensure that the proposed development does not negatively impact the natural heritage features on site, and these have been recommended to be incorporated as conditions of site plan approval.

The Servicing Feasibility study has concluded that the site can be serviced from a sanitary servicing, water servicing and stormwater servicing perspective and the City's Engineering and Public Works Department have no objections to the development.

The conceptual site plan includes a residential building near 16th Street East. 16th Street East/Highway 26 is considered a Transportation Noise Source by the Ministry of Environment Conservation and Parks (MECP) Environmental Noise Guidelines. As part of the Site Plan Approval process, the applicant must demonstrate that the proposed residential buildings will be able to meet minimum provincial noise requirements for stationary and transportation sources (NPC-300) and any mitigation measures will be implemented through that process.

Sydenham Heights Planning Area

The subject lands are located within Phase I of the Sydenham Heights Planning Area. The purpose of this secondary plan is to provide the basis for the development of a diverse community area in a manner that has the greatest positive impact on the quality of life in Owen Sound. The secondary plan provides more specific development policies for the Sydenham Heights Planning Area to guide decisions on development applications and to incorporate the findings of the recently completed engineering studies for the Planning Area. The following policies are applicable to the application:

4.2.1 The Sydenham Heights Planning Area is proposed to be largely a residential mixed-use community. The Planning Area is to be distinguished by its natural environmental features, existing major institutional uses, a mixed-use node at 16th Avenue East and 8th Street East and residential development to accommodate future growth in the City.

4.2.2.1 The Sydenham Heights Phase I and II Planning Areas shall primarily accommodate residential land uses together with a mix of compatible institutional, commercial and open space uses to support and service the

local residential area in accordance with the policies of Section 3.1 of this Plan.

4.2.2.5 The overall density target for the Planning Area is not less than 25 units per net hectare. This target shall be planned for in an equitable manner across the entire secondary plan area.

4.2.2.9 In areas designated East City Commercial on Schedule 'A2', development shall take place in accordance with Section 3.5 of this Plan. The East City Commercial designation is generally an extension of this land use as located in the area south of Highway No. 26 and west of 20th Avenue East.

Comment

The proposed Zoning By-Law Amendment seeks to facilitate a mixed-use development with a mix of commercial, office, and medium density non-ground oriented multiple dwelling units. The proposed development maintains the existing natural heritage features on the subject site and proposes to convey an Open Space block to the Town. The proposed development exceeds the units per hectare density target of the Official Plan and achieves a density of 40 units per hectare.

4.2.4 Parkland

4.2.4.1 The County maintains a trail along the former railway corridor that bisects the Sydenham Heights Planning Area. Appropriate setbacks may be required as development occurs within this area. The potential relocation of the trail to facilitate development of abutting lands may be permitted without amendment to this Plan provided the trail remains continuous in a linear fashion with safe road crossings, the design is consistent with the needs of a variety of trail users, and the potential relocation does not conflict with the County's long-term goals and objectives for the former railway corridor. Any potential trail relocation shall require agreements with and approval from the County of Grey.

Comment

The proposed Zoning By-law amendment proposes to maintain the Hazard Land zone on the portion of the property which abuts the Rail Trail. No new connections are proposed from the subject lands to the Rail Trail at this time, but a connection will be required at the site plan stage and will require approval from City and County Staff. The connection to the Rail Trail from

the subject lands should be by a municipal sidewalk of Active Transportation Route on 16th Street East. If the connection to the trail will cross the Hazard Zone, further environmental impact study will be required.

4.2.4.2 Neighbourhood parks with links to the trail system are to be provided as identified in the Recreation Parks and Facilities Master Plan to provide local parkland needs of residents in the Sydenham Heights Planning Area. The southerly park is adjacent to lands designated Niagara Escarpment Plan Area on Schedule 'A2' and shall be designed and developed for passive recreational activities for the area residents. The City may require the completion of a landscape plan for any park area and may enter into a development or subdivision agreement for the construction of a park.

Comment

The proposal identifies 0.37 hectares of land at the south end of the property to be zoned Open Space (OS) and conveyed to the City for parkland. The lands to be conveyed are identified as Open Space in the Official Plan and as Open Space – Park on Figure 7 of the City's Recreation Parks and Facilities Master Plan. The conveyance of the lands would occur through the Site Plan Approval process. These lands are proximate to the County rail trail and may form a future rest stop or trail information site.

4.2.4.3 The lands designated Hazard Lands form part of the flood plain of a tributary of Bothwell's Creek. It is intended that these lands be maintained to manage regional storm events in a manner whereby erosion is controlled.

Comment

An Engineered Floodplain Study has been provided by the applicant in accordance with the policies of Section 6.1.5, since the lands abut the Hazard Lands designation. The City and the Grey Sauble Conservation Authority (GSCA) have reviewed the setbacks. City Engineering and GSCA staff have concluded that the "post-development flood line" as indicated on the servicing and grading drawings is acceptable. GSCA staff recommend that the City's Zoning By-law be amended to match the findings of the floodplain analysis, which will result in a slightly larger Hazard Land area. Refinement of the Hazard zone boundary is permitted without amendment to the Official Plan. GSCA recommends that cut and fill be carried out prior to buildings being constructed and that this be incorporated into the zoning Holding provision or site plan control or Draft Plan of Condominium process.

The Zoning By-law Amendment is proposed to align with the boundaries of the “post-development flood line” and it is recommended that the cut and fill activities be addressed through the Site Plan Approval process.

As noted through the peer review of the EIS, a native shrub border is to be planted at the summer creekbank for a wildlife privacy screen and for the shading of Telfer Creek to support cool and coldwater fish.

4.2.4.4 The trail system that will follow the former railway corridor will bisect the north portion of the Hazard Lands, allowing the trail system to continue uninterrupted as it traverses the Sydenham Heights Planning Area.

4.2.4.5 Lands designated Hazard Lands will not be considered as parkland dedication.

Comment

The proposed development does not proposed any changes to the location of the trail system and no Hazard Lands are proposed to be considered for parkland dedication. The Hazard lands are proposed to be conveyed to the City for conservation purposes and will not count towards the parkland dedication requirements.

4.2.5 Road System

4.2.5.1 All lands shall be developed in general conformity with the schematic road system plan illustrated on Schedule 'A2', subject to the policies contained herein. For local and collector roads, the road system plan may be considered illustrative only and changes to the location and configuration of such streets shall be permitted without amendment to this Plan, provided the planned street does not adversely impact the development ability of adjoining lands or the general traffic flow system provided, and the layout is in accordance with suitable design principles.

4.2.5.2 The portion of Highway No. 26 (16th Street East) located within the Sydenham Heights Planning Area is a Provincial highway connecting link. Access to this portion of the highway may be restricted and will be subject to approval of the City and may include consultation with the Ministry of Transportation and address any applicable permit requirement.

Comment:

A new access is proposed to provide vehicular and pedestrian access to the proposed site from 16th St E at the boundary between the subject property

and Heritage Grove to the west. A sidewalk should be extended along the front of the property to provide an active transportation connection to the Rail Trail directly east of the subject lands and to create connectivity to the existing sidewalk to the west. Any proposed public or private street to service the subject lands must include sidewalks to create pedestrian connectivity with adjacent lands.

The final road access configuration and design will be established through the lifting of Holding provision, Site Plan and condominium approval process. The City will request confirmation that the landowner and adjacent landowner have an agreement in place for design, construction, use and maintenance of the access. The Holding provision will include criteria that site access must be established to the satisfaction of City staff prior to lifting the Holding Provision.

4.2.5.6 The City may require noise impact studies for lands adjacent to major roads prior to final approval of residential development to determine the need for noise attenuation and buffering in accordance with the Ministry of the Environment, Conservation and Parks (MECP) requirements.

Comment:

The proposed site plan includes a residential building near 16th Street East. 16th Street East/Highway 26 is considered a Transportation Noise Source by the Ministry of Environment Conservation and Parks (MECP) Environmental Noise Guidelines. Prior to site plan approval, the applicant will be required demonstrate that the proposed residential buildings will be able to meet minimum provincial noise requirements for stationary and transportation sources (NPC-300) and that any mitigation measures are implemented.

4.2.6 Services and Infrastructure

4.2.6.1 All development within the Sydenham Heights Planning Area shall proceed on the basis of full municipal wastewater and water services.

4.2.6.2 The East Owen Sound Master Servicing Study serves as a base reference document for the City and property owners wishing to undertake development relative to servicing the remaining land in the eastern part of the City to allow for orderly development.

4.2.6.3 Parts of three drainage basins named Kenny Drain, Telfer Creek West Branch and Bothwell's Creek are within the Sydenham Heights Planning Area. The Stormwater Management Strategy developed as part of the East

Owen Sound Master Servicing Study contains servicing strategies for Kenny Drain, Telfer Creek West Branch and Bothwell's Creek. The following provides a summary of the directions which are to be considered as part of development applications for the lands:

- a. Criteria for design of SWM facilities.*
- b. Recommendation to establish centralized SWM facilities at low points in the local topography to service more than one development.*
- c. Identification of preliminary SWM facility locations.*

Comment:

A Servicing Feasibility Study was provided to support the proposed Zoning By-law Amendment. The study was prepared in accordance with the Owen Sound East Side Master Servicing. The study concluded that there is sufficient capacity in the municipal sewer and water system to service the proposed development and stormwater will primarily be managed onsite, with less than pre-development rates of peak flow being directed to the tributary of Bothwell Creek. The City's Engineering Services and Public Works Division have reviewed the proposed servicing scheme and Servicing Feasibility Study and have no concerns.

4.2.8 Implementation

4.2.8.1 It is a policy of this secondary plan that new development shall be responsible for the cost of upgrades to existing infrastructure and new infrastructure that will benefit such new development. Area Specific Development Charges for the Sydenham Heights Development Area are identified in Schedule C and Schedule D of the City's Development Charges By-law (By-law No. 2020-112) to recover costs the City incurred to extend water and sanitary to service lands in Phase 1.

Comment:

Development charges will be collected at the building permit stage. The proposed private road to access the proposed development will be the shared financial responsibility of the applicant and the adjacent property owner who will also assume ownership of the shared private road.

Infrastructure - Transportation

The OP's Transportation Infrastructure policies (Section 5.1) establish the general transportation network requirements and structure to facilitate safe,

convenient, and reliable movement of people, goods, and services within and to destinations beyond the city.

5.1.4 Parking

5.1.4.14 Parking and charging stations for electric vehicles is required in new development and redevelopment. The provision for future parking and charging stations is also encouraged and may be considered at the time of site plan review.

Comment:

The proposed site-specific zoning by-law amendment must establish a minimum electric vehicle parking rate for the subject lands. This minimum parking rate can include electric vehicle ready spaces and the provision for future charging stations.

Urban Design

The OP's Urban Design policies (Section 8.0) establish the general design vision for the City and establish design criteria for the City to evaluate new development proposals in accordance with the provisions of the Planning Act and Council direction.

8.2 Natural Features

8.2.1.3 New development should be designed so as to protect and enhance this natural setting. Significant natural features such as river valleys, ravines, wetlands escarpments and woodlands within or adjacent to any development should be protected with suitable setbacks, access points and visibility.

Comment:

The proposed development protects the natural setting through the retention of a vegetative buffer zone and development setback to Fish Habitat and hydrology floodplain limit, constrained hydrological zone for below grade alterations and constrained tree cutting period. The development setback will be ensured through the proposed limits of the Hazard Zone. The restrictions noted above were recommended through the submitted Environmental Impact Study which has been peer reviewed by SAAR, further discussion on the Peer review is included below. SAAR has recommended that additional mitigation measures be incorporated into the development and these conditions will be included in the future site plan application. SAAR also

discourages the location of a walking path adjacent to the creek feature and Hazard Zone. If a walking path continues to be proposed in this location, a fence should be installed to ensure that people and domestic animals limit their interaction with the creek feature. Views of the Hazard lands are provided from the residential balconies overlooking the hazard lands and from public areas between the residential buildings including a restaurant.

8.3 Experiencing the City

8.3.2.1 The City may identify certain points of entry into the City and certain key intersections as Gateways and Nodes. These are points that may be used to create a sense of welcome and arrival, assist in orientation and create a memorable image of the City. The primary locations are at the highway entrances at Highway 26 in the east, Highways 6/10 in the south and Highways 6/21 in the west and nodes identified in area studies such as the Harbour and Downtown Urban Design/Master Plan Strategy. These locations may be marked with special structures, landscaping or signage that reflects the unique character of the City. Design opportunities and the integration of these elements into the surrounding area may be identified through Urban Design studies.

Comment:

The subject lands are located at the entrance to Highway 26 at the east end of the City. An Urban Design Study has been prepared in support of the proposed development to identify how the Urban Design policies of the Official Plan have been achieved, including the gateway policies. The Urban Design Study identifies that a gateway will be memorable through the design of the proposed buildings and the sitting of the buildings in relation to the adjacent hazard lands. Towers are proposed to be used through the proposed building design to create interest in the skyline. Tower forms are also proposed to be utilized to help identify the entrance to the site from the proposed public street. Masonry walls are proposed to screen refuse containers and the proposed drive-through. The Urban Design Study will be reviewed in further detail at the site plan stage and must align with the final site plan.

8.4 Pedestrian Environment

8.4.1.1 The City will seek to secure a safe and accessible pedestrian environment in public and private development through the development and use of design guidelines which provide standards for clear visibility in public

places, appropriate lighting, safe movement around vehicles, barrier-free sidewalks and building entrances and such other measures as may be appropriate.

8.4.2.4 The City will promote public and private development that provides a comfortable, human scale environment, supports social interaction and which addresses the issues of year-round use.

Comment:

The subject lands have direct access to the 16th Street East Sidewalk, which currently ends at the subject lands. The development of the subject lands must include a sidewalk connection to the adjacent Rail Trail. Staff preference is for this connections to be established across the property frontage. The proposed development will also be required to provide internal pedestrian connections on all internal roads to maintain pedestrian connectivity within the site and to adjacent properties.

Additional details related to site design including appropriate lighting, barrier free access, building entrance details, year round-use and amenity features that support social interaction will be reviewed at the site plan stage. The mixed-use design of the development supports human interaction.

8.6 Streetscape

8.6.1.1 The City will seek to achieve well-coordinated and designed streetscapes throughout the City, particularly in the commercial areas and along arterial roads. They should provide comfortable pedestrian environments, safe vehicular movement, reinforce the desired or established character of the area and, where appropriate, incorporate trees for shade.

Comments:

The proposed development will be required to provide an internal pedestrian network within in the site and along the new entrance road with connections to the existing sidewalk on 16th Street East and the Rail Trail. A landscape plan will be required at the site plan stage, and will be required to provide street trees. The final road access configuration will be required to be established before the Holding can be removed from the proposed site-specific zone. The Holding will not be permitted to be lifted until City staff are satisfied with the proposed road access configuration.

8.6.5 Large Lots

8.6.5.1 In order to create an attractive street edge, buildings on large commercial, industrial or institutional lots with sufficient depth to provide internal traffic distribution are encouraged to be located close to the street with parking located further from the street with appropriate landscape treatment as specified in the City's Site Plan Submission and Approval Guidelines.

8.6.5.2 Buildings close to the street could be developed in a form similar to that described in Section 8.6.3.

8.6.5.3 Consideration should be given to continuous pedestrian access along the building fronts near the street and connecting to adjacent development. Safe, comfortable, accessible and barrier pedestrian points of access from the street should be provided at regular intervals to all buildings on the lot.

8.6.5.4 A connect City sidewalks to main, accessible entrances.

8.6.5.5 In this form of development, parking shall be separated from sidewalks by a landscaped buffer. Sidewalks may also be set back from the road with landscaped boulevards where appropriate. These areas should be landscaped in accordance with applicable design guidelines.

Comment:

The conceptual site plan directs parking internal to the site in accordance with the Official Plan policies. Enhanced Landscaping along the 16th Street East frontage will be required to enhance the development's frontage, and this will be reviewed through the landscape plans at the site plan stage. The conceptual site plan includes internal sidewalk access to all buildings, and these accesses will continue to be required at the site plan stage. Additional detail related to landscape buffers will be required at the site plan stage and pedestrian connections to the adjacent lands will be required.

8.6.6 Parking and Access

8.6.6.1 Where off street parking is required, the City may develop and enforce design criteria and guidelines to provide for:

- a. Safe vehicular access.*
- b. Pedestrian safety, convenience and accessibility.*
- c. Adequate lighting, signage and landscaping.*
- d. Controlled visual impact by appropriate location on the site.*

8.6.6.2 Parking should be located in a manner appropriate to the size of the site, the optimum relationship of the building to the street and convenient access for users as described in Section 8.6.

8.6.6.3 Access points should be clearly visible and distinguishable, limited in number and designed in a manner that will minimize hazards to pedestrian and motor traffic in the immediate area. The City may require consolidation of adjacent parking areas to provide appropriate spacing of access points on arterial roads.

8.6.6.4 Pedestrians should have a safe, well-lit, clear route from vehicle to building at all times of the year. Safe, comfortable, accessible and barrier-free pedestrian points of access should be frequent and easily identified with clear directional signage. Larger developments should provide sitting areas for pedestrians awaiting pick-up.

8.6.6.5 Parking areas are to be adequately landscaped in accordance with urban design guidelines. Parking areas should maintain distinct street edges through appropriate landscaping or structures.

Comment:

As noted in the comments above, further details related to road access to the proposed development will need to be determined through the future lifting of the Holding application. Through the future site plan application, details related to parking and the internal pedestrian network will be reviewed in detail. The proposed conceptual site plan proposes an internal sidewalk system which appears to align with the Official Plan. The internal sidewalks will be required to connect to the existing sidewalk on 16th Street East and the adjacent Rail Trail. Landscaping around parking areas will be reviewed at the site plan stage. The conceptual site plan has limited surface parking and incorporates structured parking in the base of the proposed apartment buildings. Staff are supportive of this design approach and further detail will be reviewed at the site plan stage.

8.6.7 Adjacent Uses

8.6.7.1 The City shall consider matters of potential impact on adjacent uses when considering any application for a change of use.

8.6.7.2 The City shall consider the potential impact of abrupt changes in building height and scale on surrounding uses and protected views when

considering zoning by-laws and site plan approvals. Generally, the City will seek compatible building forms.

8.6.7.3 Where the height or mass of a proposed building may significantly shadow or cause increased wind conditions on an adjacent open space or solar collector, the City may require a study be undertaken to assess the impact and may develop and enforce setback requirements, site plan requirements and design guidelines to ameliorate the problem.

8.6.7.4 Wherever a residential type of use abuts an industrial use, a commercial use, an institutional use, a parking area, a loading area or any other incompatible use, the City may develop and enforce setback requirements, site plan requirements and design guidelines to provide adequate visual and aural separation and privacy for the residential use in accordance with MECC.

8.6.7.5 Generally, where a non-residential site abuts a residential use, the location of access lanes, parking areas, loading areas and waste storage close to the residential use should be avoided. A landscaped buffer and appropriate screening should be required along the adjoining lot lines. Additional screening may be required where noise levels generated by the non-residential use are considered unusually high and would negatively impact the residential use.

8.6.7.6 Protection of adjacent uses may require support of compatibility studies in accordance with Schedule 'E'.

Comment:

The proposed development proposes to transition building heights from lower buildings on the west side of the site, to taller buildings on the east side of the site. The lands to the east are designated and zoned Hazard Lands and development is not permitted or contemplated on these lands. The proposed low-rise commercial buildings on the west side of the site act as a logical transition from the approved and partially constructed commercial development at Heritage Grove Centre, immediately west of the subject lands. A Solar Study was completed to assess the conceptual site plan and found that the largest shadow impacts were on the lands to the east and south. SAAR Environmental Inc through the peer review does not have any concerns with the shadows and no shadows would reach the abutting property to the west. If the conceptual site plan is revised to relocate taller buildings closer to the property to the west, an additional solar study will be

required at the site plan stage to confirm if there is potential for shadowing onto the adjacent lands.

8.6.8 New Residential Development

8.6.8.1 New residential development should be planned in neighbourhoods through Planning Areas, creating identifiable areas of the City with simple street patterns, a coherent built form, a well-connected and safe pedestrian system and accessible local amenities such as a neighbourhood park, convenience shopping and institutional uses.

8.6.8.2 Buildings should be sited to provide relatively consistent streetscapes within an area, with similar setbacks, defining the visual width of the streets. Street trees should be planted in accordance with an appropriate plan.

8.6.8.3 In new comprehensively designed residential development, the City may permit building setbacks and lot sizes which vary from surrounding development where these are determined to be appropriate to the proposed form of development in accordance with accepted design guidelines.

8.6.8.4 New development should support the maintenance of a continuous open space system and provide appropriate pedestrian access.

Comment:

The subject lands are located in the Sydenham Heights Planning area which contemplates the creation of a range of low density, medium density and high-density dwelling types. The proposed Zoning By-law Amendment seeks to permit medium density dwellings and compatible commercial uses. The proposed development contemplates a residential density which exceeds the minimum 25 units per hectare density outlined in the Planning Area and is located in a location with access to existing pedestrian and servicing infrastructure. The proposed Zoning By-law Amendment seeks to zone a portion of the property as Open Space, to be conveyed to the City as parkland and a connection to the adjacent Rail Trail is proposed. Building sitting will be finalized through the future site plan application.

8.6.10 Landscape Design

8.6.10.1 Landscaping shall be designed to enhance the presence of each building and used as a major visual element to unify the proposed building, streetscape and surrounding environment.

8.6.10.2 Landscaping design shall utilize a diversity of plant material that are appropriate for the site conditions in all seasons, including a focus on native plant material where appropriate, and avoid the use of invasive species in accordance with City policies and guidelines.

Comment:

Landscaping design will be reviewed in detail at the site plan stage. SAAR Environmental Inc and SON have requested that native plantings be utilized in the landscape plan for the site, and this will be confirmed at the site plan stage.

City of Owen Sound Zoning By-law (2010-078, as amended)

The subject property is zoned 'Rural' (RUR) and 'Hazard Land' (ZH) in the City's Zoning By-law (2010-078, as amended). The Rural zone on the subject lands recognizes the greenfield character of the property and that until the sanitary sewer trunk was extended along the Rail Trail servicing infrastructure was not available and limited the opportunity for development of the lands.

The purpose of the application is to permit a mixed-use development which includes three multi-unit commercial buildings, two single-purpose commercial buildings, and three 3-storey (40 unit) multi-unit residential buildings with a total of 120 residential units. The proposal also includes the construction of parking areas, an internal road system, landscaping, and a stormwater management system. The development is proposed to be accessed via a new private road south of 16th St E.

The effect of the application is to amend the zone categories from Rural to a Retail Commercial Holding (C2 H) Zone subject to special provisions. The lands currently designated and zoned Hazard Lands (ZH) will remain.

Current Zoning	Proposed Zoning
<ul style="list-style-type: none"> ▪ Rural (RUR) ▪ Hazard Lands (ZH) 	<ul style="list-style-type: none"> ▪ Retail Commercial Holding with Special provisions 14.XXX (C2(H)14.XXX) ▪ Hazard Lands (ZH) ▪ Open Space (OS)

The proposed special provisions will:

- Implement the policies of the City's Official Plan with respect to the East City Commercial policies, specifically Section 3.5.2.5 with respect to the requirement for a market study for retail uses with a gross floor area (GFA) less than 465 square metres or greater than 1,400 square metres;
- Provide for a reduced exterior side yard setback from 3m to 2m; and,
- Establish requirement for the provision Electric Vehicle Parking.

Exterior Side Yard Setback

The C2 zone required a minimum exterior side yard setback of 3.0m. A 2.0m exterior side yard setback is proposed. The one (1) metre reduction to the exterior side yard setback is considered appropriate since the proposed road will have limited traffic and will only service two sites. There are no current plans to extend the street and the adjacent lands are Hazard Land which would not require a street for servicing and don't have any anticipated development potential. The proposed setback will help create an active street frontage with buildings near the street instead of parking. The requested reduction is minimal and is not anticipated to impact the ability of the parcel to support the proposed development.

The proposal meets the requirements of the City's Zoning By-law.

Minimum Electric Vehicle Parking

The Official Plan requires that all new development include electric vehicle parking. A requirement of the Zoning By-law is to make provision for electric vehicle parking.

Holding Provision Symbol

A Holding Provision is proposed to be placed on the proposed zoning. The Holding Provision will not be lifted until the following provisions are satisfied in accordance with comments throughout this letter:

- Submission of a retail market analysis to the satisfaction the City of Owen Sound staff. The analysis must satisfy section 3.5.2.5 of the Official Plan.
- Proof that site access can be designed and implemented through Site Plan Approval and a Servicing Agreement to the satisfaction of City of Owen Sound staff.

The proposed zoning By-law amendment is attached as Schedule 'D'.

City Staff & Agency Comments

In response to the request for comment from the Planning & Heritage Division, the following comments have been submitted for review pertaining to the subject application. All comments can be found attached hereto as Schedule 'F'.

City of Owen Sound Engineering & Public Works Department

The Public Works and Engineering Department supports approval of the Zoning By-law Amendment application. Staff note that there is servicing capacity for the area and that site access will be provided by a private roadway with shared access to the subject lands and neighbouring property (2125 16th Street East and 2175 16th Street East), as a direct access from 16th Street will not be permitted. Staff did not raise any concerns with the submitted Traffic Impact Study, but noted that details related to the 'T' intersection for the private road and 16th Street East, such as the land configuration and stacking length, will be resolved under the Site Plan approval process. Staff have requested pedestrian walkways, sidewalks and connections to City streets be provided in addition to a sidewalk and or Active Transportation Route be provided across the 16th Street East frontage with a connection to the Rail Trail.

SAAR Environmental Limited

SAAR Environmental Limited (SAAR) conducted a peer review of the submitted Environmental Impact Study. SAAR has no objections to the approval of the zoning by-law amendment application, but recommend the following actions be taken prior to future development approvals:

- Confirm whether protocols for Bobolink field effort included the MECP three visits, and the three herptile visits.
- The significant woodland analysis can benefit from expanded detailing. The GCOP test for EIS author Review is included in the detailed comments document.
- Expand discussion on PPS policy related to whether the current development poses such an added risk that it results in degradation of ecology values that the area is known for. The post construction environment changes on species discussed in SAAR's detailed comments requires further discussion.

- Black Ash Trees were identified on the subject lands in the EIS. These trees are under a two-year moratorium. If construction is scheduled for 2024 after the 2-year moratorium, the tree status can be clarified at that time and if endangered or threatened, location relative to the cut/fill and tree removal areas is required before site alteration.
- Added mitigation is recommended for natural heritage before cut and fill, outlined in the mitigation section to ensure lack of particular species and/or relocation before this activity.
- The EIS team should confirm absence of Pileated Woodpecker nesting by a) confirmation from their field notes of no suitable cavity excavation, or b) a site inspection before any cut/fill activity and tree cut.
- Regarding bat maternity roost habitat, we note the EIS confirmed tree cut is limited to Vegetation Communities 1,3 where trees fall below the MECP 25cm diameter at breast height (10 and 14cm averages respectively).
- A walking path is discouraged adjacent to the creek.
- Conclusions
 - Salvage search of buildings on site before demolition (birds, bats, snakes).
 - Salvage search before any cut/fill by new Hazard Land limit and relocation (e.g. Digger Crayfish chimneys, aestivating turtles, Pileated Woodpecker cavity trees).
 - Confirm final COSSARO status of Black Ash and location relative to cut/fill and tree removal area.
 - Plant native shrub border at summer creekbank for a wildlife privacy screen and shading for Telfer Creek peak summer water temperature supporting the cool and coldwater fish.
 - Restrict mirrored windows and place hawk silhouettes at corner windows where glass is perceived as safe passage for flying wildlife.

Grey Sauble Conservation Authority (GSCA)

Comment has been received from GSCA with no objection to the subject proposal. GSCA accepts the proposed “post-development flood line” as indicated on the servicing and grading drawings. GSCA staff recommend that the City’s zoning be amended to match the findings of the floodplain

analysis, which will result in a slightly larger Hazard Land area. GSCA recommends that cut and fill be carried out prior to buildings being constructed and that this be incorporated into the zoning Holding provision or site plan control or Draft Plan of Condominium process. Cut and fill will require a permit from GSCA.

Bell Canada

Comment has been received from Bell Canada with no objection to the subject proposal.

Historic Saugeen Metis (HSM)

Comment has been received from HSM with no objection to the subject proposal. HSM staff did note that HSM generally does not support development or encroachment within areas designated as Environmental Protection and Hazard Lands. It was acknowledged that the Grey Sauble Conservation Authority regulates development or encroachment in areas designated as Shoreline, Environmental Protection and Hazard. Comments from Grey Sauble Conservation Authority are included above.

Saugeen Ojibway Nation (SON)

SON has identified that the following conditions of approval must be incorporated into the development approvals in order to support the proposed development:

1. Proponent to landscape with trees, shrubs and wildflowers that are native to SON Territory, and to provide SON with a complete list of species to be planted prior to landscaping activities (SON may be able to provide guidance on species selection).
2. Proponent to install signage at trailheads leading to the Rail Trail from the development to educate local residents about:
 - a. SON Territory, SON history in the area, and SON values, rights and responsibilities to the land.
 - b. Impacts of off-leash pets, invasive species, garden encroachment, and disposal of litter and compost in natural areas.
 - c. The benefits of gardening with native plants.

These comments are supported in the recommendations from the EIS peer review including the additional plantings along the tributary at the time of Site Plan Approval. Trail head signage can also be incorporated and

implemented through Site Plan Approval. SON will be requested to provide appropriate wording.

Grey County

Comments have been received from County of Grey with no objection to the proposed zoning by-law amendment. County staff did provide comments related to the noise mitigation or further study of the northern most residential building, prohibition of drainage being diverted to the County's Rail Trail and access concerns related to future trail access from 16th Street East due to grading challenges.

Blue Water District School Board (BWDSB)

Comments have been received from BWDSB with no objection to the proposed zoning by-law amendment. Staff requested that urban standards such as sidewalks be included throughout the proposed development to facilitate heavy foot traffic areas and promote walkability. BWDSB has also requested conditions of Site Plan approval being:

- "That the owner(s) agree in the Agreement to include in all Offers of Purchase and Sale a statement advising prospective purchasers that accommodation within a public school operated by Bluewater District School Board may be accommodated in temporary facilities; including but not limited to a portable classroom, a "holding school", or directing students to an alternative attendance boundary."
- "That the owner(s) shall agree in the Agreement to include in all Offers of Purchase and Sale a statement advising prospective purchasers that student busing is at discretion of the Student Transportation Service Consortium of Grey-Bruce."
- "That the owners(s) agree in the Agreement to include in all Offers of Purchase and Sale a statement advising prospective purchasers that if school buses are required in accordance with Board Transportation policies, as may be amended from time to time, school bus pick up points will generally be located on the through street at a location as determined by the Student Transportation Service Consortium of Grey Bruce."

Public Comments

- Neighbouring Property
 - Concerns were raised with the proposed public road since it's not currently identified in the City's Official Plan of Transportation Master Plan. Additional concerns over safety on the proposed road and impact of traffic volumes on the adjacent commercial development were also raised.
 - Concern was raised that the Notice of Public Meeting and the documentation available on the City's website does not contain a copy of the Draft Zoning By-law being considered as part of Zoning By-law Amendment (ZBA) #44. As a result the general public are unable to fully ascertain the extent of the site-specific exceptions being requested to facilitate Sydenham Square Inc. ZBA application and weigh the potential impacts.
 - Concern was raised over the lack of a Market Study, which is an Official Plan requirement.

There is an existing agreement between these two property owners that provides for mutual cooperation with respect to a new shared entrance from 16th St E as well as a stormwater outlet. A stormwater outlet has been created through a legal right of way over the subject land in favour of Heritage Grove. Cooperation in terms of design and development of the new access road will be required and implemented through Site Plan Approval. The Holding provisions address the market test in accordance with Section 3.5.2.5 of the East City Commercial lands.

- Resident
 - The condition requested by the Blue Water District School Board (BWDSB) is concerning because the City needs to ensure that there is sufficient school capacity for new residential units being built. The condition of concern reads *"That the owner(s) agree in the Agreement to include in all Offers of Purchase and Sale a statement advising prospective purchasers that accommodation within a public school operated by Bluewater District School Board may be accommodated in temporary facilities; including but not limited to a portable classroom, a "holding school", or directing students to an alternative attendance boundary."*
 - It is requested that council consider not approving the requested condition from BWDSB.

The public comments have been considered in the preparation of the report and the proposed Zoning By-law amendment, including the use of a Holding Provision for the completion of requirements to the satisfaction of the City.

Public Meeting

Members of the public presented at the Public Meeting held on January 30, 2023. The comments presented by the Public and members of Council are summarized below:

- Question relating to whether there is typically a required setback from the Hazard land boundary.
- Questions were raised regarding the cost and payment for the proposed road and servicing for the proposed development.
- Questions were raised regarding the intended demographic for the proposed development.
- Questions were raised surrounding the content of comments received from the SON.

Site Plan Control Matters & Future Planning Act Applications

The proposed development is subject to Site Plan Control in accordance with Section 41 of the Planning Act and City By-law 2019-185.

Conditions of approval to be applied through the Site Plan Approval process are discussed above and include, but not limited to:

- The following conditions are requested by City Staff:
 - That all Additional mitigation measures requested through the EIS peer review conducted by SAAR Environmental be conducted and documentation of such measures be submitted to the City and/or SAAR for final approval.
 - That the applicant demonstrate that the proposed residential buildings will be able to meet minimum provincial noise requirements for stationary and transportation sources (NPC-300).
 - That a sidewalk and/or Active Transportation Route connection be established from the subject lands to the Rail Trail to the satisfaction of City and County Staff, and MTO if applicable.
- The following conditions are requested by BWDSB:
 - That the owner(s) agree in the Agreement to include in all Offers of Purchase and Sale a statement advising prospective

purchasers that accommodation within a public school operated by Bluewater District School Board may be accommodated in temporary facilities; including but not limited to a portable classroom, a "holding school", or directing students to an alternative attendance boundary."

- "That the owner(s) shall agree in the Agreement to include in all Offers of Purchase and Sale a statement advising prospective purchasers that student busing is at discretion of the Student Transportation Service Consortium of Grey-Bruce."
- "That the owners(s) agree in the Agreement to include in all Offers of Purchase and Sale a statement advising prospective purchasers that if school buses are required in accordance with Board Transportation policies, as may be amended from time to time, school bus pick up points will generally be located on the through street at a location as determined by the Student Transportation Service Consortium of Grey Bruce."
- The following conditions are requested by GSCA:
 - Proponent to provide proof of cut and fill actives having been carried out prior to building construction.
- The following conditions are requested by SON:
 - Proponent to landscape with trees, shrubs and wildflowers that are native to SON Territory, and to provide SON with a complete list of species to be planted prior to landscaping activities (SON may be able to provide guidance on species selection).
 - Proponent to install signage at trailheads leading to the Rail Trail from the development to educate local residents about:
 - SON Territory, SON history in the area, and SON values, rights and responsibilities to the land.
 - Impacts of off-leash pets, invasive species, garden encroachment, and disposal of litter and compost in natural areas.
 - The benefits of gardening with native plants
- The adjacent development will be required to cooperate with respect to design and construction of the new entrance roads.

As legislated, site plan approval is now a staff-delegated process.

The developer has indicated through the Planning Justification Report that the proposed development will be subject to a Plan of Condominium application at some time in the future. This application will be processed as per the legislated process in force and effect at that time.

Financial Implications:

Application fees were collected as part of the ZBA in the amount of \$3,300.00 as well \$390.00 for GSCA.

The cost of the peer review of the Environmental Impact Study will be paid by the developer in the amount of \$5,424.00.

The developer will be required to pay for servicing, transportation, water, sanitary and stormwater to support the development.

Communication Strategy:

A Notice of Complete Application and Public Meeting was given in accordance with the *Planning Act*.

Notice of Decision will be given subject to Council's decision and a twenty (20) day appeal period will follow the Notice.

Consultation:

The application was circulated to various City Departments and our commenting agencies as part of the consultation process.

Attachments:

Schedule 'A': Orthophoto

Schedule 'B': Official Plan and Zoning Map

Schedule 'C': Concept Site Plan

Schedule 'D': Servicing Drawings

Schedule 'E': Urban Design Study

Schedule 'F': Draft Zoning By-law Amendment & Appendix A

Schedule 'G': Public Meeting Minutes and Public Comments

Schedule 'H': Agency Comments

Recommended by:

David Aston, MSc., RPP, MHBC Planning (Consulting Planner for City)

Aleah Clarke, BES, MHBC Planning (Consulting Planner for City)

Pam Coulter, BA, RPP, Director of Community Services

Submission approved by:

Tim Simmonds, City Manager

For more information on this report, please contact Sabine Robart, Manager of Planning & Heritage at srobart@owensound.ca or 519-376-4440 ext. 1236.