

**Ontario Land Tribunal**

655 Bay Street, Suite 1500  
Toronto, ON M5G 1E5  
Telephone: (416) 212-6349  
Toll Free: 1-866-448-2248  
Website: olt.gov.on.ca

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

655 rue Bay, Suite 1500  
Toronto, ON M5G 1E5  
Téléphone: (416) 212-6349  
Sans Frais: 1-866-448-2248  
Site Web: olt.gov.on.ca



April 01, 2025

TO: All recipients of the Ontario Land Tribunal Decision and Order issued on June 27, 2024

**RE: OLT CASE NO.: OLT-23-000419 (OLT-23-000419, OLT-23-000699 and OLT-23-000804) DECISION ISSUED ON JUNE 27, 2024**

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On June 27, 2024, the Ontario Land Tribunal issued its Decision and Order ("Decision") on the above-noted case.

Rule 24.4 of the Ontario Land Tribunal's *Rules of Practice and Procedure* ("Rule") states that the Tribunal may at any time correct a technical or typographical error made in a decision or order.

The Tribunal has corrected the Decision under the authority of this Rule by appending an appendix (Appendix A) to Attachment 1 (Owen Sound By-law 2023-045), and, by substituting "metres" for "meters" in paragraph 4 and removing "the" prior to "2275" in paragraph 2 and prior to "2125" in paragraph 3.

A corrected version of the Decision issued on June 27, 2024 is enclosed with this communication. This enclosed Decision replaces the Decision and Order issued on June 27, 2024.

Thank you,

*"Euken Lui"*

EUKEN LUI  
REGISTRAR

Encl.

# Ontario Land Tribunal

Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** June 27, 2024

**CASE NO(S):**

OLT-23-000419

OLT-23-000699

OLT-23-000804

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Villarboit Owen Sound Holdings LP and Heritage Grove Centre Inc.
Subject:	By-law No. 2023-045
Description:	To permit the rezoning of subject lands to allow the commercial/residential development
Reference Number:	ZBA No. 44
Property Address:	2275 16th Street East
Municipality/UT:	Owen Sound/Grey
OLT Case No.:	OLT-23-000419
OLT Lead Case No.:	OLT-23-000419
OLT Case Name:	Villarboit Owen Sound Holdings LP v. Owen Sound (City)

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Sydenham Square Inc.
Appellant:	Thompson Centres Inc.
Applicant:	Heritage Grove Centre Inc.
Subject:	By-law No. 2023-082
Description:	To permit the construction of additional buildings to complete the buildout of the multi-building commercial development on subject lands
Reference Number:	CS-23-071
Property Address:	2125 16th Street East
Municipality/UT:	Owen Sound/Grey
OLT Case No.:	OLT-23-000699
OLT Lead Case No.:	OLT-23-000699
OLT Case Name:	Sydenham Square Inc. v. Owen Sound (City)

**PROCEEDING COMMENCED UNDER** subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Heritage Grove Centre Inc.
Subject:	Consent
Description:	To create an easement for access over a portion of the subject property
Reference Number:	B06-2023
Property Address:	2125 16th Street East
Municipality/UT:	Owen Sound/Grey
OLT Case No.:	OLT-23-000804
OLT Lead Case No.:	OLT-23-000804
OLT Case Name:	Heritage Grove Centre Inc. v. Owen Sound (City)

**Heard:** February 12, 2024

**APPEARANCES:**

**Parties**

Villarboit Owen Sound Holdings LP and  
Heritage Grove Centre Inc. (“Heritage”)

Sydenham Square Inc.  
 (“Sydenham Square”)

Thompson Centres Inc. (“Thompson”)

City of Owen Sound (“City”)

**Counsel**

Gerard Borean

Raivo Uukkivi

John Pappas

Harold Elston

**DECISION DELIVERED BY A. SAUVE AND ORDER OF THE TRIBUNAL**

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[Link to Final Order](#)

## INTRODUCTION

[1] This Decision stems from three separate, but related, applications that had been set for Hearings. The Parties have come to a proposed resolution of all three matters and requested that a single Settlement Hearing be convened for the three to be heard.

[2] The first ZBA application relates to lands located at 2275 16<sup>th</sup> Street East ("2275") and appeals the City's approval of By-Law No. 2023-045 ("ZBA 44") which amended the City's Zoning By-Law 2010-078 ("Zoning By-Law"). The purpose of ZBA 44 is to permit the rezoning of 2275 to allow the proposed development of five commercial buildings and three residential apartment buildings. The effect of ZBA 44 is to amend the special provisions which currently apply to the subject lands and replace the special provisions with new standards. The applicant for ZBA 44 is Sydenham Square and it is being appealed by Heritage.

[3] The second ZBA application relates to lands located at 2125 16<sup>th</sup> Street East ("2125") and appeals the City's passing of By-Law No. 2023-082 ("ZBA 48") which amended the Zoning By-Law. The purpose of ZBA 48 is to permit the construction of additional buildings to complete the buildout of the multi-building commercial development on 2125. A new 3,252-square-metre grocery store is proposed, together with an attached 1,310-square-metre retail unit in the northeast quadrant of the site. Heritage was the applicant for ZBA 48, and it is being appealed by Thompson.

[4] The third application arises from an appeal of a Committee of Adjustment ("COA") decision to allow an easement over lands in favour of the neighbouring property located at 2275. The proposed easement is approximately 7.2 metres (northern end) to 8 metres (southern end) in width and 117 metres in length. The purpose of the easement is to provide access to 2275 from 16<sup>th</sup> Street. The easement was approved; however, Heritage appealed, disputing the conditions imposed.

**EVIDENCE**

[5] The Parties present requested the following documents be marked as Exhibits:

- a. Exhibit 1 – Affidavit of Service (at previous Case Management Conference)
- b. Exhibit 2 – Document Book of Heritage Grove
- c. Exhibit 3 – Visual Evidence Document Book of Villarboit
- d. Exhibit 4 – Zoning By-Law amendment number 48
- e. Exhibit 5 - Visual Evidence of Sydenham Square Inc.
- f. Exhibit 6 - Zoning By-Law amendment 44
- g. Exhibit 7 – Ron Davidson CV
- h. Exhibit 8 - Ron Davidson Acknowledgement of expert duty
- i. Exhibit 9 – Schedule A of By-Law 2023-045

[6] For the Settlement Hearing, the Parties presented two (2) witnesses. The first was Mark Yarranton, who was found, after a review of the credentials provided, to be qualified to provide expert opinion evidence in the field of Land Use Planning. Yarranton provided evidence regarding ZBA 48 and the Consent application.

[7] The second witness was Ron Davidson, who was found, after a review of the credentials provided, to be qualified to provide expert opinion evidence in the field of Land Use Planning. Davidson provided evidence regarding ZBA 44.

## ANALYSIS AND FINDINGS

[8] Yarranton provided evidence to the Tribunal indicating that the goal of their client's proposed development is to create a high-quality urban centre by developing a grocery store and retail building on their property. However, Yarranton proffered, the existing C2 provision in the Zoning By-Law does not allow for grocery stores and ZBA 48 seeks to amend that, along with some other minor changes to the Zoning By-Law. Yarranton testified that the settlement proposal would eliminate the Holding provision currently found in ZBA 48; thus the Parties are asking for the appeal to be allowed in part.

[9] M. Yarranton provided evidence that the settlement proposal is consistent with the Provincial Policy Statement ("PPS"). Yarranton testified that the proposal is located within the City's Settlement Area with access to full municipal services and that the proposal includes a two-unit commercial building which will contribute to the range and mix of commercial employment available in the City. Yarranton also provided evidence that the site has no natural heritage constraints and is a new development phase of an existing commercial development. Also, 2125 fronts 16th Street East, which is an existing transit route that extends into the subject lands. Yarranton opined that the proposed development is appropriate for and will efficiently use the infrastructure and public service facilities which are available on the subject lands.

[10] 2125 is designated Primary Settlement Area in the County of Grey Official Plan ("County OP"). Yarranton testified that Settlement Areas with full municipal services are the focus of most of the growth within the County. Yarranton also testified that the County OP promotes a full range of residential, commercial, industrial, recreational, and institutional land uses within Primary Settlement Areas and opined that this settlement proposal conforms to the County OP.

[11] The City of Owen Sound Official Plan ("City OP") contains a comprehensive list of policies to manage growth and development within the City. Yarranton testified that the subject property is designated East City Commercial in the City OP and that the

lands are located within the Sydenham Heights Planning Area – Phase I. Yarranton opined that the proposed development is comprised of permitted uses in the East City Commercial designation and that the proposed development includes commercial uses that are compatible with the existing and planned residential land uses in the surrounding area found in the Sydenham Heights Planning Area. Yarranton opined that the settlement proposal conforms with the City OP.

[12] The Tribunal agrees with the uncontested evidence of Yarranton and comes to the same conclusion regarding the proposed settlement of the ZBA 48 appeal.

[13] Yarranton then provided evidence concerning the Consent application. As part of the settlement agreement the Tribunal was informed that all of the conditions have been satisfied and that the City can issue a Certificate under s. 53(42) of the *Planning Act*. Yarranton testified in detail as to how the conditions have been met, including with the preparation of a Traffic Impact Study and that an easement agreement has been executed, among other conditions. Yarranton opined that the proposal conforms to the City OP, County OP, and the Planning Act, and is consistent with the PPS.

[14] The Tribunal agrees with the uncontested evidence of Yarranton and comes to the same conclusion regarding the proposed settlement of the Consent appeal.

[15] The Tribunal then heard from Davidson concerning ZBA 44. Davidson adopted the evidence of Yarranton and agreed that the prior evidence represented sound land use planning. Davidson provided more site-specific information regarding 2275; that subject land is 7 hectares in size but only 3 hectares are developable because of forested and hazard designations in the other areas.

[16] Davidson provided evidence that the purpose of the ZBA 44 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. Davidson also testified that the proposal includes the construction of parking areas, an internal road system, landscaping, and a

stormwater management system. Davidson proffered that the proposed C2 zoning for the property will permit the proposed commercial and residential development.

[17] Davidson testified that the County OP designates the entire City as primary settlement area and that the City OP designates the subject land as East City Commercial. Davidson opined that the settlement proposal conforms with the County OP and the City OP.

[18] Davison provided evidence to indicate that the PPS directs urban development to designated settlement areas such as the City and that it encourages intensification in areas with existing municipal services, as can be found in this settlement proposal. Davidson continued, stating that this proposal would have no impact on natural heritage features nor areas of agricultural significance. Davidson opined that the settlement proposal is consistent with the PPS, has regard for matters of Provincial interest under the Planning Act, and represents good planning.

[19] The Tribunal agrees with the uncontested evidence of R. Davidson and comes to the same conclusion regarding the proposed settlement of the ZBA 44 appeal.

## **ORDER**

[20] **THE TRIBUNAL ORDERS** that:

- a. OLT-23-000419 – the appeal against By-law 2023-045 is allowed in part and directs the municipality to amend By-law 2023-045 as set out in Attachment 1 to this Order. The Tribunal authorizes the municipal clerk of the City of Owen Sound to assign a number to this by-law for record keeping purposes. In all other respects, the Tribunal Orders that the appeal is dismissed;
- b. OLT-23-000804 – the appeal is allowed in part and the provisional consent is to be given providing that the easement shall contain the language set out in Attachment 2 to this Decision, being the document entitled “Schedule of



Easement Terms". The Certificate shall be issued by the City of Owen Sound pursuant to s. 53(42) of the Planning Act;

- c. OLT-23-000699 – the appeal against By-law No. 2023-082 is allowed in part and directs the municipality to amend By-law No. 2023-082 as set out in Attachment 3 to this Order. The Tribunal authorizes the municipal clerk of the City of Owen Sound to assign a number to this by-law for record keeping purposes. In all other respects, the Tribunal Orders that the appeal is dismissed.

[21] The Tribunal may be spoken to should any issues arise with respect to the implementation of this Order.

*"A. Sauve"*

A. SAUVE  
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.

## Attachment 1

### The Corporation of the City of Owen Sound

#### By-law No. 2023-045

#### A By-law to amend Zoning By-law No. 2010-078, respecting lands located at 2275 16<sup>th</sup> Street East (ZBA No. 44 - Telfer Creek Square)

WHEREAS section 34(1) of the *Planning Act*, R.S.O. 1990, c. P.13 (the "Planning Act") provides that the council of a local municipality may pass by-laws for prohibiting the use of land and for prohibiting the erection, location or use of buildings and structures for or except for such purposes as may be set out in the by-law and for regulating the use of lands and the character, location and use of buildings and structures; and

WHEREAS on April 12, 2010, the Council of The Corporation of the City of Owen Sound (the 'City') passed Zoning By-law No. 2010-078 (the "Zoning By-law") to implement the City's Official Plan and to regulate the use of land in the City; and

WHEREAS City Council is desirous of adopting a zoning by-law amendment, pursuant to section 34 of the Planning Act, for lands located at 2275 16<sup>th</sup> Street East (the "subject lands"); and

WHEREAS such amendment to the Zoning By-law will maintain the terms and intent of the City of Owen Sound Official Plan; and

WHEREAS City Council has carefully considered all public comments throughout the process; and

WHEREAS on January 30, 2023, a public meeting was held under section 34 of the Planning Act to consider zoning for the subject lands; and

WHEREAS on March 27, 2022, City Council passed Resolution No. R-230327-005 directing staff to bring forward a by-law to amend the Zoning By-law respecting the subject lands, in consideration of staff report CS-23-037;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

1. That schedule A, Zoning Map 20 forming part of Zoning By-law No. 2010-078, is amended by changing the zoning category on those lands lying and being in the City of Owen Sound, being described generally as 2275 16<sup>th</sup> Street East, Part Park Lots 9 and 10, Range 5 EGR, shown more specifically on Appendix 'A' attached to this by-law from 'Rural' (RUR) and 'Hazard Lands' (ZH) to 'Retail Commercial' Holding (C2(H)) with Special Provision 14.136, Hazard Lands (ZH) and 'Open Space' (OS).
2. That the following provisions be added to Zoning By-law Section 14:
 

Special Provision 14.136

  - a. Notwithstanding the C2 (H)(14.136) Zone, legal existing uses as of the date of this By-law, may continue on the lands.

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b. ~~c.~~ The City of Owen Sound shall not remove the "Holding" provision for use of any lot or erect, alter or use any building or structure on the lands for any retail or commercial use that is less than 465 square metres and greater than 1,400 square metres until such time as the matters outlined below are satisfied and notwithstanding the provisions of the 'Retail Commercial' (C2) with special provision 14.136, for those lands shown on Schedule A, Zoning Map 20:

i ~~i.~~ The completion of a retail market analysis, in accordance with section 3.5.2.5 of the Official Plan, to the satisfaction the City of Owen Sound.

c. ~~d.~~ At the time when the "Holding (H)" Symbol, identified in (eb), is removed by the City and notwithstanding the provisions of the Retail Commercial (C2) Zone and for lands shown on Schedule A, Zoning Map 20 the Retail Commercial (C2) zone provisions shall apply save and except for the following:

i ~~i.~~ Minimum Exterior Side Yard Setback: 2.0 metres

ii ~~ii.~~ Notwithstanding the provisions of Section 5.18 regulating Off- street Parking Requirements:

1. Electric Vehicle parking spaces with charging facilities shall be provided at the following ratios:

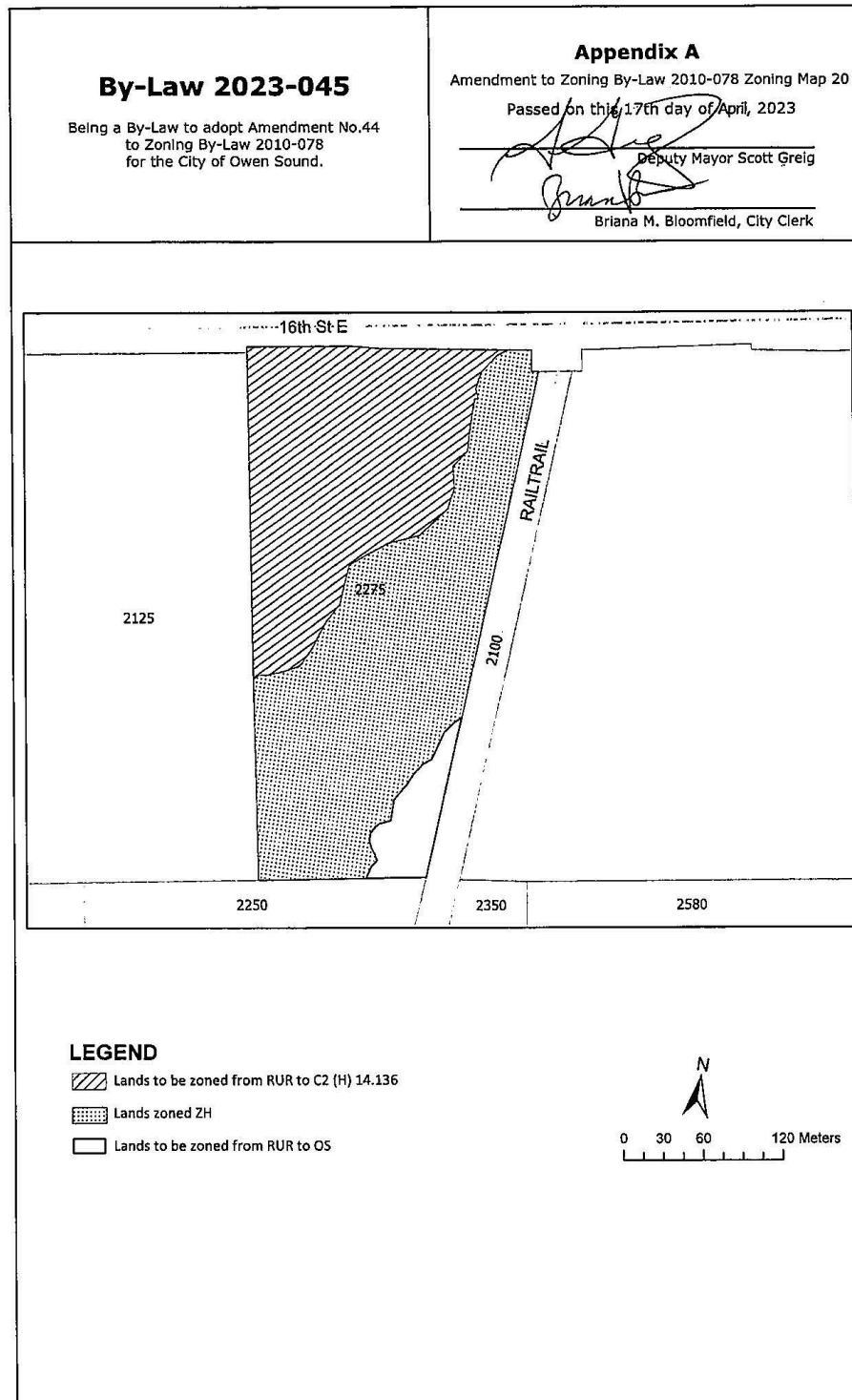
Number of Total Required Parking spaces	Minimum number of Electric Vehicles Parking Spaces with Charging Facilities
0-150	2
Greater than 150	3% of total required parking

3. This by-law shall come into full force and effect on the date it is passed.

FINALLY PASSED AND ENACTED this 17th day of April 2023.

Deputy Mayor Scott Greig

Briana. M Bloomfield, City Clerk



## Attachment 2

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### SCHEDULE OF EASEMENT TERMS (Vehicular Access)

#### Dominant Lands:

PIN 37061-0151 (LT), PART PARKLOTS 9-10 RANGE 5 EGR PLAN OWEN SOUND AS IN R407787 EXCEPT PLAN1138;

#### Servient Lands:

PIN 37061 - 0268 LT

PART PARKLOTS 8 & 9 RANGE 5 EAST OF THE GARAFRAXA ROAD PLAN OWEN SOUND, DESIGNATED AS PARTS 1, 2 AND 3 ON PLAN 16R-11954, CITY OF OWEN SOUND

#### WHEREAS:

- A. The Transferor is the registered owner of the Servient Lands described in the Properties Section of the Transfer Easement document into which this Schedule of Easement Terms is incorporated;
- B. The Transferee is the registered owner of the Dominant Lands described in the Properties Section of the Transfer Easement document into which this Schedule of Easement Terms is incorporated;
- C. The Transferor and the Transferee have agreed that this Schedule is intended to set out the respective rights and obligations of the Transferor and Transferee with respect to the use of the non-exclusive vehicular access easement affecting the Servient Lands and benefiting the Dominant Lands and the specific terms by which the Transferor and Transferee have agreed to be bound.

NOW THEREFORE in consideration of the sum of two (\$2.00) dollars now paid by each of the parties to this Agreement to the other, for other valuable consideration the receipt and sufficiency of which is hereby acknowledged and in consideration of the covenants, easements, terms, conditions and restrictions contained herein, the Transferor and Transferee hereby agree as follows:

#### PURPOSE AND DURATION

- 1) Subject to the terms of this easement and the specific limitations and qualifications contained herein, the Transferor hereby sells, grants, transfers and conveys in perpetuity to the Transferee, its successors and assigns including owners, occupants, invitees, workers, servants and contractors (hereinafter collectively referred to as the "Transferee"), a non-exclusive easement in, under, over, upon, across or through the Servient Lands for the benefit of the Dominant Lands for the purposes of having a singular vehicular access to and from the Dominant Lands at such access point between the Dominant Lands and the Servient Lands as is approved by the Government Authority and to and from 16th Street East in the City of Owen Sound. It is the expectation and agreement of the Transferor and the Transferee that if approved by the said Government Authority, this access point shall be seven and a half (7.5) metres in width abutting the southern portion of Part 3 on Reference Plan 16R-11954.
- 2) For greater certainty, the owner of the Servient Lands hereby grants an easement over, under, along, and upon the Servient Lands for the benefit of the Dominant Lands to be accessed at the southerly 7.5m of Part 3 on the Plan 16R-11954, for the purpose of one (1) vehicular access connection to the Dominant Lands from the Servient Lands to the benefit of the owners, occupants, and all those for whom they are responsible from time to time of the Dominant Lands

#### TRANSFEROR COVENANTS

- 3) The Transferor covenants and agrees not to unreasonably interfere with the non-exclusive right of free, uninterrupted and unobstructed vehicular passage over the Servient Lands

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granted to the Transferee for the purposes of providing a curbed vehicular driveway access to and from and for the benefit of the Dominant Lands by the terms of this easement.

- 4) The Transferor covenants and agrees that without the written consent in writing of the Transferee, which consent will not unreasonably be withheld, the Transferor will not alter or improve any part of the 7.5m driveway access on the Servient Lands following the completion of the access road thereon as required by the City of Owen Sound, by applying any surface treatment or erecting any pole, structure, other obstruction or building or do any other construction above or below the surface that will materially interfere with the curbed vehicular driveway access rights granted in favour of the Dominant Lands over the Servient Lands by this easement document save and except for reasonable maintenance, repair and replacement of the road surface or any underlying services therein, including but not limited to, water service connections. For clarity the Transferee is not required to consent to anything which in any way impairs the free and uninterrupted vehicular passage over the 7.5m driveway access on the Servient Lands by the Transferee.
- 5) The Transferor and the Transferee hereby covenant and agree with each other that the owner of the Servient Lands will make commercially reasonable efforts to design its site and to maintain appropriate signage to prevent backing up of trucks within the 7.5m driveway access on the Servient Lands.
- 6) The Transferor covenants and agrees to construct the curbed vehicular driveway access within the Servient Lands in accordance with approvals given by Government Authorities for development of the Servient Lands and maintain the vehicular driveway access in reasonable condition at all times at the Transferor's sole cost and expense and without limitation the Transferor shall keep the said driveway free and clear of ice and snow as is consistent with good property management standards for such driveway.

#### **TRANSFEEE COVENANTS AND ACKNOWLEDGEMENT**

- 7) The Transferee covenants and agrees that the use of the Servient Lands will be restricted to vehicular passage over the Servient Lands to and from the Dominant Lands, to and from 16<sup>th</sup> Street East in the City of Owen Sound. The Transferee shall make no other use of the Servient Lands that could materially interfere with the vehicular traffic over the Servient Lands to and from the balance of the lands owned by the Transferor. Normal vehicular passage expected from and to a development such as will be constructed on the Dominant Lands shall not be considered to materially interfere with the reasonable use of the curbed vehicular driveway access.
- 8) The owner of the Servient Lands acknowledges and agrees that the owner of the Dominant Lands shall not be responsible for any design, construction or Costs for any part of the vehicular access or to pay for any maintenance, repairs or upkeep to any of the access road, lanes, or curbs on the Servient Lands, save and except as is agreed between the Transferor and Transferee in writing.
- 9) The easement granted herein, contemplates and is intended to accommodate further significant commercial and residential development on the Dominant Lands and allows for and contemplates further subdivision of the Dominant Land all of which developed and or subdivided parcels (if any) share in the full right to the enjoyment of the driveway access easement and water connection easement as set out herein.

#### **INSURANCE**

- 10) The Transferor and the Transferee covenant and agree that each shall be responsible for maintaining their own insurance coverage related to the ownership and use the curbed vehicular access driveway located on the Servient Lands.

#### **NOTICE**

- 11) Any notice to be given or required under this Agreement (which term in this paragraph includes any request or waiver) shall be in writing and sent by personal delivery or by ordinary or registered prepaid mail to the address for service set out in Transfer Easement

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document to which this Schedule is attached. The Transferor and the Transferee may designate in writing to each other a change of address at any time. Notice by mail shall be deemed to have been received on the fourth (4th ) business day after the date of mailing, and notice by personal delivery shall be deemed to have been received at the time of delivery. In the event of an interruption in postal service, notice shall be given by personal delivery. Notice by electronic mail shall be deemed to have been received at the time of delivery.

#### **REGISTRATION AND PRIORITY**

- 12) The Transferor shall be entitled to register the Transfer Easement to which the Schedule is attached against title to the Servient Lands and Dominant Lands and the Transferor shall execute or arrange for the execution of any document that may be required to allow such registration in priority to any encumbrances or charges registered against title to the Servient Lands as may reasonably be required by the Transferee. The Transferor agrees to register this easement within 6 months of the date the terms are settled.

#### **SEVERABILITY & ENTIRETY**

- 13) All of the terms, covenants and provisions contained in the Transfer of Easement including this Schedule shall be severable and should any be declared invalid or unenforceable, the validity and enforceability of the remaining terms, covenants or provisions shall not be affected thereby.
- 14) This Agreement is the entire agreement between the Transferor and the Transferee with respect to the Transfer of Easement and no understandings or agreements, whether verbal, collateral or otherwise, exist between the parties except as expressly set out herein or in any other written agreement signed by the Transferor and the Transferee.

#### **PERPETUITY**

- 15) This Agreement including the easement rights herein transferred shall run with the Servient Lands in perpetuity or until such time as the Transferee, or its successor or assign, authorizes its release and the terms contained herein shall enure to the benefit of and be binding upon the parties hereto and their respective successors, assigns, heirs, executors and personal representatives as the case may be.

#### **GOVERNING LAW**

- 16) This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.

#### **DEFINITIONS.**

- 17) In this document, any reference to:
- a) “*Government Authority*” means the local municipal governments, both upper and lower tier, and any other governmental authority, quasi-governmental authority, agency, body or department whether federal, provincial or municipal, having jurisdiction over the Servient Lands;

### Attachment 3

The Corporation of the City of Owen Sound

By-law No. 2023-082

A By-law to amend Zoning By-law No. 2010-078,  
Respecting lands located at 2125 16<sup>th</sup> Street East  
(ZBA No. 48 – Heritage Grove)

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WHEREAS section 34(1) of the *Planning Act*, R.S.O. 1990, c. P.13 (the "Planning Act") provides that the council of a local municipality may pass by-laws for prohibiting the use of land and for prohibiting the erection, location or use of buildings and structures for or except for such purposes as may be set out in the by-law and for regulating the use of lands and the character, location and use of buildings and structures; and

WHEREAS on April 12, 2010, the Council of The Corporation of the City of Owen Sound (the 'City') passed Zoning By-law No. 2010-078 (the "Zoning By-law") to implement the City's Official Plan and to regulate the use of land in the City; and

WHEREAS City Council is desirous of adopting a zoning by-law amendment, pursuant to section 34 of the *Planning Act*, for lands located at 2125 16<sup>th</sup> Street East (the "subject lands"); and

WHEREAS such amendment to the Zoning By-law will maintain the terms and intent of the City of Owen Sound Official Plan; and

WHEREAS City Council has carefully considered all public comments throughout the process; and

WHEREAS on June 12, 2023, a public meeting was held under section 34 of the *Planning Act* to consider zoning for the subject lands; and

WHEREAS on June 26, 2023, City Council passed a resolution directing staff to bring forward a by-law to amend the Zoning By-law respecting the subject lands, in consideration of staff report CS-23-076;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

1. That schedule A, Zoning Map 20 forming part of Zoning By-law No. 2010-078, is hereby amended by changing the zoning category on those lands lying and being in the City of Owen Sound, being described generally as 2125 16<sup>th</sup> Street East, SYDENHAM RANGE 5 EGR PT PARK LOTS 8 AND 9 RP 16R9039 PT PART 1 RP 16R11134 PARTS 1 AND 3, shown more specifically on Appendix 'A' attached to this by-law from 'Retail Commercial' (C2) with Special Provision 14.89 and 'Rural' (RUR) to 'Retail Commercial' (C2) Zone with Special Provision 14.139, and 'Rural' (RUR).
2. That Special Provision 14.89 shall be deleted.
3. That the following provisions be added to Zoning By-law Section 14: Special Provision 14.139
  - a. For lands shown on Schedule A, Zoning Map 20, no person shall use any lot or erect, alter or any building, or structure save and except for those uses permitted in the Retail Commercial (C2) zone. The C2 zone provisions shall apply save and except for the following:
    - i. Minimum building setback from 16<sup>th</sup> Street East: 4 m for Building 'H';
    - ii. Minimum building setback from any street line: 6 m for all other buildings;



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- iii. Minimum building setback from any other lot line: 8 m;
  - iv. Minimum planting strip adjacent to 16th Street East: 1.5 m;
  - v. Maximum building heights for Hotels, Clinics and Laboratories: 19 m;
  - vi. Restaurants with a unit size of 325.5 square metres or smaller: Maximum aggregate total of 520 square metres;
  - vii. Permit one drive-through restaurant, which shall not be subject to the 520 square metre restaurant aggregate regardless of size;
  - viii. Retail Stores with a gross floor area of less than 465 square metres, shall be permitted provided the aggregate does not exceed a maximum of 2,230 square metres and Retail Stores with a gross floor area exceeding 1,400 square metres shall also be permitted provided the aggregate does not exceed a maximum of 17,050 square meters. Retail Stores with a gross floor area of greater than 465 square metres and less than 1,400 square metres shall be permitted, and no aggregate maximum shall apply; and,
  - ix. The buildings, structures and uses existing on June 26, 2023, shall be deemed to comply with this By-law.
4. This by-law shall come into full force and effect on the date it is passed.

**By-Law 2023-082**

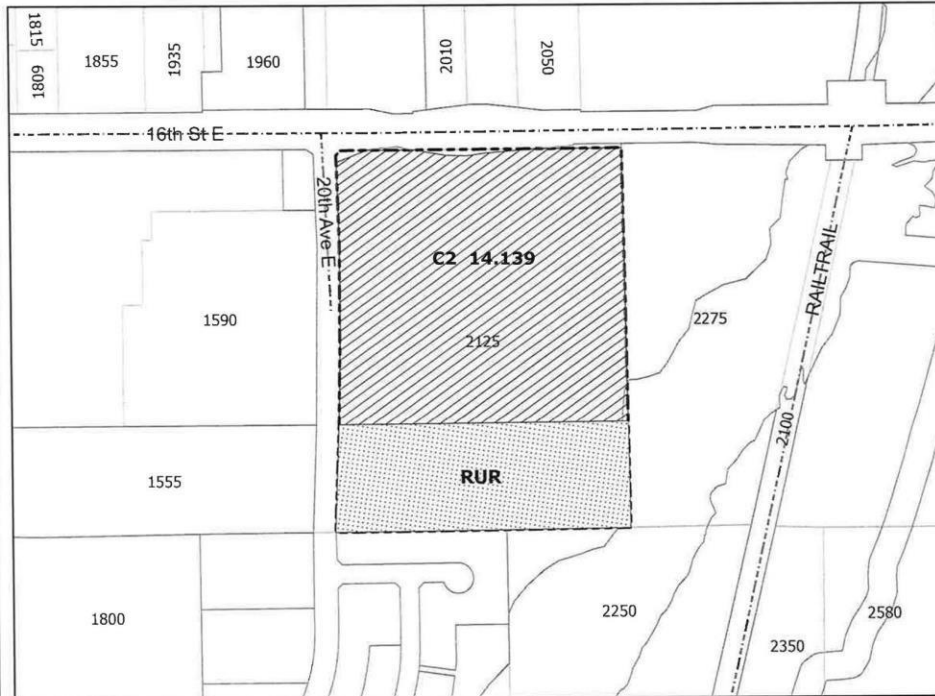
Being a By-Law to adopt Amendment No. 48  
to Zoning By-Law 2010-078  
for the City of Owen Sound.

**Appendix A**

Amendment to Zoning By-law 2010-078 Zoning Map 20  
Passed on this \_\_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_  
Mayor Ian C. Boddy

\_\_\_\_\_  
Briana M. Bloomfield, City Clerk

**LEGEND**

Subject Property

Lands to be rezoned to C2 (14.139)

