

April 11, 2023

City of Guelph
1 Carden Street
Guelph Ontario, N1H3A1

Attention: Mayor Guthrie and Members of Guelph City Council

Re: Proposed Comprehensive Zoning By-law - City of Guelph

Thank you for the opportunity to comment on the final draft of the City's proposed new Comprehensive Zoning by-law. Initially, I wish to advise that I watched with interest the entire Council debate and resolution related to its Pledge to the province to "Build homes faster" on February 28, 2023. There was lots of debate about things that the City has no control over including, federal policy regarding interest rates, skilled labor, market demand, material shortages and pricing and lots of requests of others (Provincial and Federal Government and the development industry). What surprised me was the lack of commentary or debate over things that the City has direct control over which can affect the supply and affordability of housing including the City's policies, procedures and regulations affecting the development of new housing units and its planning approval process.

The Comprehensive Zoning by-law with its permitted uses and regulations is one of the key documents that regulates new residential development, so I would encourage Council to get it right. This is something that you directly control. I have reviewed the final version of the zoning by-law and the associated Staff report and would provide the following comments and recommendations.

The report suggests that the by-law will support several key principles including:

- Alignment with contemporary zoning practices
- Compliance with Provincial Legislation
- Streamlining the development approval process.

1. Alignment with contemporary zoning practices:

In my earlier comments on the draft by-law, I brought up the City's proposed 20m² per unit requirement for Common Amenity space (CA space) for higher density residential developments and mixed-use developments (containing residential units) and my request that this regulation be eliminated. I note that the latest version of the by-law no longer requires Common Amenity space within the older built-up area of the City, but I still maintain that the regulation should be completely removed.

It certainly doesn't reflect contemporary zoning practices and, when applied, it will prevent the City from achieving the densities allowed by the Official Plan. Realistically the only way to achieve the per 20m² unit requirement is to reduce the number of units in a development until the per unit number can be achieved. This does not support Guelph's Pledge to achieve the number of residential units requested by the Province and build homes faster.

In terms of contemporary practices, the following medium to large municipalities have either eliminated a Common Amenity area requirement or significantly reduced the requirement. The year in brackets is the year the by-law was adopted:

Kingston (2022) – No requirement

Kitchener (2019) – No requirement

Waterloo (2018) now requires 3 m² per bedroom and an additional 2 m² for each additional bedroom as CA space.

Oakville (2014) – No requirement

Barrie (2009) – No requirement

Mississauga (2007)- No requirement

Brampton (2004) – No requirement

London (Unsure of date) – No requirement

In addition, a quick review of the City's existing zoning by-law reveals that a large percentage of the specialized zones for R.4A and R.4B (higher density residential developments) have a reduced or no CA requirement. Why are we continuing to push forward on an antiquated regulation that doesn't support the desire to approve higher densities allowed by the OP and speed up development approvals?

Developers of properties are required to provide a Parkland dedication or cash-in-lieu equivalent to support the development and redevelopment of public parks. A requirement to provide common amenity space is effectively requiring the private development to also require a private passive park (or other interior CA space like a party or workout room) for each development. Developers will provide amenities when marketing their developments to future owners or tenants, but not to the extent being required in the new zoning by-law. This regulation is antiquated and should be removed.

Recommendation: That the current 20m² CA space requirement within the Proposed Comprehensive Zoning by-law for higher density residential and mixed-use developments be removed.

2. Will the document support the intent of the new provincial legislation to "Build homes faster"?

In my opinion, the City has regulations in the proposed by-law that continue to control the construction of a building and/or exterior design of higher density residential developments and mixed use (res/com) projects. These include:

1. Building length (max)
2. Angular plane
3. Floor plate (max)
4. Step back (min) above certain floors
5. First Storey transparency (40% must be windows)
6. Building length to width ratios

In my opinion, any regulations which affect the manner of construction of the building and/or exterior design are contrary to the intent of the recent changes to the Planning introduced through Bill 23 (see excerpt from the Planning Act below). These requirements are excluded from Site Plan Control and it would appear that the City is attempting to insert them into the Zoning by-law to sidestep the legislation. The intent of the legislation below is that the municipalities can no longer control these matters.

Exclusions from site plan control

(4.1) The following matters relating to buildings described in paragraph 2 of subsection (4) are not subject to site plan control:

1. Interior design.
- 1.1 **Exterior design**, except to the extent that it is a matter relating to exterior access to a building that will contain affordable housing units or to any part of such a building or is a matter referred to in subparagraph 2 (d) of subsection (4).
2. The layout of interior areas, excluding interior walkways, stairs, elevators and escalators referred to in subparagraph 2 (c) of subsection (4).
3. **The manner of construction and standards for construction, 2006, c. 23, s. 16 (5); 2022, c. 21, Sched. 9, s. 11 (3).**

To use the example of step backs, this requirement clearly affects the manner of construction of residential or mixed-use buildings and will increase the cost of the building thus affecting the affordability of a project.

When the Zoning by-law was tabled at the statutory public meeting during 2022, Bill 23 had not been passed and the regulations (noted above) while considered problematic (as they inhibit the flexibility of architects/designers to design a building and in no way simplify or streamline the approvals process), but they were in the realm of possibility to be considered. With the passage of Bill 23 it is my concern/opinion that all of, or some of, these proposed regulations do control the exterior design of a building (e.g. glazing) and the manner of construction (e.g. step backs, building length to width ratios etc.). There is nothing in the report that indicates that the by-law has been reviewed from a legal perspective against the changes and restrictions introduced through Bill 23. If the City is committed to building homes faster and streamlining the approvals process, this review is necessary.

Recommendation: That before passing the new Zoning By-law, City Council direct staff to retain an outside Lawyer to provide an independent legal review of the By-law to identify and remove any regulation that is contrary to changes to the Planning Act introduced by Bill 23 that prohibit the municipality from controlling the interior and exterior design of a building and the manner of construction.

3. Will the document streamline the development approvals process?

The staff report indicates that the Zoning by-law will streamline the development approval process since it has “Prezoned” lands that are designated in the Official Plan for medium and high density residential and mixed-use development. This could eliminate the need for a costly and time-consuming Zoning By-law amendment process. On the surface this would appear to be a positive step, but each of these prezoned sites has a Holding (H) Zone applied to it requiring functional servicing reports to be submitted and reviewed by staff before the H is lifted or a Site Plan application can be made. The review of Functional servicing reports is a key component of Zoning by-law amendment applications and, in my experience with the City, sometimes takes 6 months to a year to satisfy staff. If staff are taking the same amount of time to review servicing before a site plan application, how is this process more efficient and streamlined. Isn't the new Holding zone just replicating key components of a zoning amendment review?

Recently, City staff introduced changes to the City's application review process for Site Plans to add steps in response to Legislative changes by the Province intended to speed up the process. Applicants can no longer have Zoning and Site plan applications reviewed simultaneously but must await the outcome of zoning or minor variance processes before submitting for Site plan approval. Further, in addition to a mandatory preconsultation meeting, the process now includes a presubmission process

where staff will undertake a detailed review of documents to determine if an application is complete. Nothing can move forward until these processes are complete. How long will this take and are these new processes streamlining the review process?

Recently, I was also made aware that the City is now introducing a mandatory Neighbourhood meeting requirement before an application can be considered. While I don't know all the details of this new requirement how does this streamline the process? Not every application will generate public interest but now applicants must schedule a neighbourhood meeting where it is possible that no one will attend. The current process works well. After an application is deemed complete, the applications immediately moves to a statutory public meeting in front of Council where no decision is made but the details of the development are explained to both Council and the public. If substantive public interest is raised at this first meeting, follow up neighbourhood meetings or focus group meetings can be arranged. What is the issue with the existing process?

In addition to some of the regulations already noted in this submission (E.g CA space and regulations controlling building design), the proposed by-law is extremely complicated and detailed. For example, it has introduced new detailed requirements related to bike parking, EV charging stations and even requirements for roof top mechanicals (NB: a last-minute addition) where there is no flexibility. I speculate that numerous minor variance applications will be required to deal with the new regulations. These new regulations shouldn't be included in a zoning by-law but included as guidelines to be discussed at Site Plan approval, so there is flexibility in the interpretation and application. Imagine an apartment being designed for seniors (e.g. smaller one bedroom units) and the City requiring a large bike room, even though most of the residents will not own a bike. The Developer either complies or must apply for a minor variance.

Since, the question of whether the new by-law and processes will actually lead to a more efficient process and less variances is an unknown, I would encourage Council to remove the new inflexible regulations or direct staff to monitor the timeframes and variances following the adoption of the new By-law.

Recommendation: That City Council direct staff to monitor the time frames being taken to approve new multiple residential and mixed-use developments with its new processes and provide an annual report regarding these times frames and variances to the new by-law to assess if the new by-law and processes have in fact led to streamlining.

Reiterating, City Council has direct control over the content of its Comprehensive Zoning By-law. Please ensure that you are satisfied that the new by-law will improve the efficiency at which the supply of new housing units are built.

Thank you for considering my comments and recommendations. Should you have any questions, please do not hesitate to contact me at (519)-242-3184.

Sincerely,

R. Scott Hannah
Former Professional Planner and Former Member of Guelph Planning staff.