

**IN THE MATTER OF** an Appeal under subsection 32(a)(iv) of the *Business Licence By-law (2009)-18855*, regarding the refusal of the Corporation of the City of Guelph's Issuer of Licences to grant a business license to Pramila Nepali sought under the Business Licence Application No. 25-308946.

Heard: March 24, 2026

Reasons for Recommendation: March 30, 2026

Members Present: Councillor Busuttil (Chair), Councillor Downer, Councillor Richardson, Councillor Chew and Councillor Gibson

Agent / Counsel: Nancy Smith, TMA Law, Agent for the Appellant, Pramila Nepali

Allison Thornton, Counsel for the Respondent, The Corporation of the City of Guelph's Issuer of Licences

### **RECOMMENDATION**

This is the recommendation of the Business Licence Appeals Committee (the "Committee") acting as a Tribunal pursuant to the *Statutory Power Procedure Act*, R.S.O. 1990, c. S.22, as amended, with respect to the decision of the City's Issuer of Licences to refuse to grant a Private Parking Agent Business Licence to the Applicant, Pramila Nepali.

For the Reasons that follow, the Committee passed the following recommendation, to be referred to the April 21, 2026 City Council meeting:

That the Private Parking Agent Licence (application #25-308946), as submitted by Applicant, Pramila Nepali, be refused.

## **REASONS FOR RECOMMENDATION**

### **Background**

[1] On September 10, 2025, Ms. Pramila Nepali, the Appellant, submitted a Private Parking Agent Business Licence Application (the "Application") to the City of Guelph (the "City"). The Application notes the related company as Paisly & Whitelaw.

[2] Paisley & Whitelaw Inc. (the "Owner") is the owner of a property known municipally as 201 Elmira Road (the "Property") in the City.

[3] The Owner had previously sought to reduce the minimum parking requirements set out under the City's Zoning By-law (1995)-14864, which was updated under By-law (2023)-20790 (the "Zoning By-law") for the Property. The Ontario Land Tribunal (the "OLT") held a hearing on this issue, and as a result, both the Property and the Owner are subject to an Order of the OLT issued on August 6, 2025 (the "OLT Order"). Among its requirements, the OLT Order requires the following:

- (1) Provide minimum of 377 parking spots until August 6, 2026 and thereafter a minimum of 420 spots; and
- (2) Maintain these parking spots on an ongoing basis.

[4] The Appellant's Business Application was reviewed by the City's Issuer of Licences. As part of this review, Bruce Aubrey, a City zoning inspector, conducted inspections of the Property on January 9, 22 and 23, 2026. The notes from Mr. Aubrey's inspections are included in the material provided by the Respondent. In addition to a variety of maintenance concerns, these inspections revealed that the lot did not have sufficient parking spaces to satisfy the OLT Order.

[5] Following these inspections, in correspondence dated February 6, 2026, the City wrote to the Owner and advised that the parking lot did not have adequate parking spaces and that they were in violation of the OLT decision dated August 6, 2025. The Owner was given until April 6, 2026 to correct the violations.

[6] Additionally, in correspondence dated February 12, 2026 (the "Refusal Letter"), the City's Issuer of Licences wrote to the Appellant and advised that her application for a Private Parking Agent Licence had

been refused pursuant to the Business Licence By-law. Specifically, section 28(e), which authorizes the City to refuse a license where the Applicant has demonstrated noncompliance with applicable zoning or regulatory requirements. The Refusal Letter specifically references non-compliance with the OLT Order.

[7] In correspondence dated March 3, 2026, counsel for both the Appellant and her employer, Paisley & Whitelaw, notified the City that they were appealing the refusal decision.

[8] As requested by the Appellant, a Business Licensing Appeal hearing was held on March 24, 2026.

### **The Law**

[9] Pursuant to subsection 151(1) of the *Municipal Act*, S.O. 2001, c. 25 (the "*Municipal Act*"), the City has the general power to prohibit the carrying on or engaging in a business without a licence and may refuse to grant a license to carry on or engage in a business.

[10] Subsection 151(4) of the *Municipal Act* sets out that a municipality shall exercise its discretion to refuse to grant a business license upon such grounds as are set out by by-law.

[11] The City has enacted By-Law Number (2009)-18855, as amended by By-Law (2012)-19396, the Business Licence By-law, (the "By-Law").

[12] Section 28 of the By-Law states:

The Issuer of Licences may refuse to issue or renew a Business Licence:

- a) if all Inspections required pursuant to this By-law have not been completed and passed;
- b) where the conduct of the Applicant or Licensee, including the conduct of any officer, director, employee or agent of an Applicant or Licensee affords reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the Business in accordance with the law or with honesty and integrity;

- c) where the issuance of the Business Licence, or renewal of the Business Licence, would be contrary to the health, safety or wellbeing of people in the City of Guelph;
- d) where the Applicant or Licensee has past convictions under this Bylaw, or any other By-law, statute or regulation relating to the Business;
- e) where the Applicant or Licensee is carrying on an activity in relation to the Business that is, or will be, if the Applicant is licensed, in contravention of this By-law or any other By-law, statute or regulation;
- f) where it is determined that the Business does not comply with applicable legislation such as but not limited to the Building Code, and Building Code Act, Fire Protection and Prevention Act, Health Protection and Promotion Act, and the Property Standards By-law;
- g) where there is a Court order, or any federal or provincial order ceasing the activity of the Business;
- h) where a Business has ceased to operate or,
- i) upon such other grounds as are set out in this By-law.

[13] The City's general authority to license businesses was not at issue in this Appeal. This Appeal concerned whether the Issuer of Licences' decision complied with section 28 of the By-law. Specifically, whether a breach of the City's Zoning Bylaw and resulting OLT Order was appropriate for the Issuer of Licences to consider in the context of deciding whether to grant the business license sought by the Appellant.

## **The Representations of the Appellant**

### Summary

[14] In advance of the hearing, Counsel for the Appellant provided lengthy written material in support of their position, including copy of slides for a presentation, a Document Book, and a Will-Say Statement of the Appellant.

[15] Counsel for the Appellant's main argument in her verbal submissions was that business licensing is not an appropriate mechanism to enforce zoning compliance. She stated that the purpose of the business licensing regime is to regulate the business, and not the use of property. As zoning non-compliance was the only reason communicated to the Appellant in the Refusal Letter, she ought to be granted the business licence. Further, the Appellant argued that failures to maintain the parking lot should not be considered by the Committee, as these concerns had not specifically been communicated to the Appellant.

[16] The Appellant stated that this position was supported by the Supreme Court of Canada decision of *Prince George (City) v. Payne* [1978] 1 SCR 458 ("*Prince George*"). Specifically, the Appellant stated that this decision stood for the premise that municipalities are not permitted to impose restrictions on the use of land in the guise of licensing.

[17] Further, Counsel for the Appellant referenced Schedule B to the By-law, which does not list zoning as a required inspection for a Private Parking agent licence – it simply states "By-law" inspection.

[18] Counsel for the Appellant also argued that the lack of zoning compliance was due to the actions of the Owner of the property, Paisley & Whitelaw, and not the Appellant. She argued that the Appellant's application for a business licence should not be denied for something outside of the Appellant's control.

[19] To support this premise, Counsel for the Appellant referenced Schedule 11 of the By-law at subsection 2(a), which states that an application for a Private Parking Agent Licence under this By-law may not be made by a partnership or corporation, except as provided for in this schedule. The Committee noted that Section 3 of the Schedule permits a corporation to apply for the license, but states that the Business License would be issued in the name of the individual.

[20] The Appellant argued that she had completed the requirements of her application, including completing the necessary training and therefore, she should be granted the Business Licence.

[21] The Appellant was present as a witness at the hearing, and both the Respondent and the Committee had an opportunity to ask her questions.

[22] In response to these questions, the Appellant stated that the parking lot was intended to be used by the West Peak Condominiums, comprised of three buildings and 381 condominium units, of which 317

are occupied. She stated that although she was unsure, she thought the parking lot had 377 parking spaces available at some point, but that this number had fallen to below the OLT ordered amount when parking spaces were used by the Owner for construction staging. When questioned by the Respondent, she stated that she believed there were currently 300 parking spaces available and 10 visitor spots.

[23] The Appellant further testified that a parking registration system had been put in place at the Property by the Owner. She stated that 102 units had registered a vehicle.

[24] With respect to how she would enforce parking if she was granted the business licence, she stated that it was entirely up to the Owner to allocate the parking spaces, and that she would issue tickets to the vehicles that had not been registered with the Owner.

[25] When questioned by the Respondent, the Appellant acknowledged that multiple residents had not registered their vehicles as of November 25, 2025. During the hearing it was also acknowledged that there were tenants who were involved in litigation contesting the Owner's allocation of parking spaces. The Appellant stated that it would not matter for her enforcement if a tenant was involved in this litigation. If a vehicle was not registered, she would ticket it. Further, she stated that she would not delay enforcement until the parking lot had sufficient capacity to be compliant with the OLT Order.

## **The Representations of the Respondent**

### Summary

[26] In advance of the hearing, Counsel for the Respondent also provided lengthy written material in support of their position, including a brief containing a position summary, as well as relevant documents and a Will-Say Statement of the Respondent's witness, Cory McKeown, Supervisor, By-law and Security.

[27] In her verbal submissions, Counsel for the Respondent acknowledged that the decision to refuse the Business Licence was not due to the Appellant's personal deficiencies, but out of a concern that if granted, the Appellant would issue tickets in a parking lot that is not in zoning compliance due to its undercapacity. There are significantly less than the 377 regular and 60 visitor parking spots required pursuant to the OLT Order.

[28] Through their counsel, the Respondent's primary argument was that the Property's zoning compliance is a relevant and appropriate factor to consider in deciding to refuse the Appellant's Business License Application.

[29] In support of this, the Respondent relied on the plain wording of section 28(e) of the By-law, which states:

e) where the Applicant or Licensee is carrying on an activity in relation to the Business that is, or will be, if the Applicant is licensed, in contravention of this By-law or any other Bylaw, statute or regulation;

[30] The Respondent stated that the terms "any other Bylaw" would include the City's Zoning Bylaw, and by extension, an Order of the OLT varying the Zoning By-law's requirements.

[31] The Respondent further submitted that the Issuer of Licences has a duty to ensure that issuing or renewing a licence does not create or condone a breach of law and that if this Business Licence was issued, it would condone a breach of the Zoning By-Law and/or the OLT Order.

[32] Given the undercapacity of the parking lot that is contrary to the OLT Order, it is the Respondent's belief that issuing defensible parking tickets other than for safety concerns would not be viable. Currently, the City only issues parking tickets at the Property where safety concerns exist, such as blocking fire routes.

[33] As the parking lot is undercapacity due to the breaches of the zoning requirements, it is the Respondent's position that it would be unfair to issue tickets to vehicles whose owners have not registered them with the Owner. This was of particular concern as tenants of the Property are challenging in a Court proceeding how the Owner has allocated the available parking spaces in the undercapacity parking lot.

[34] The Respondent also raised the issue that if the Appellant was permitted to enforce parking, this could lead to an influx of tickets that could be successfully challenged. This potential increase in challenges could clog the City's administrative system or lead to Guelph residents and visitors being coerced into paying fines that are not fair given the undercapacity of the lot.

[35] Given the above, the Respondent submitted that the Issuer of Licences was correct in refusing the Appellant's Application.

### **Committee Recommendation and Reasons**

[36] On consideration of all the submissions made orally, the information provided by counsel for the parties and the witnesses, and a review of the written material submitted by the Appellant and Respondent, the Committee unanimously agreed to recommend to City Council that the Private Parking Agent Licence (application #25-308946), as submitted by Applicant Pramila Nepali, be refused.

[37] The Committee noted that the concerns raised by the Respondent about the lack of parking stall delineation, ponding, lack of signage and untreated icy conditions (the "Maintenance Concerns") in the parking lot. As the Refusal Letter only noted breaches with zoning compliance, these Maintenance Concerns were not considered by the Committee in reaching this recommendation. The Respondent also confirmed that the primary reason for the refusal, was zoning non-compliance and not these Maintenance Concerns.

[38] The Committee agreed with the Appellant that the notes from Mr. McKeown's inspections regarding the additional Maintenance Concerns should have been communicated to the Appellant and included in the Respondent's material before this Committee. However, the Committee was satisfied that the reason for the refusal was due to the breach of the Zoning Bylaw and/or the OLT Order and was not a result of these additional Maintenance Concerns.

[39] Relying on the notes provided from Bruce Aubrey, a Zoning Inspector with the City, and the information provided by the Respondent's witness, it is evident that there were breaches of the Zoning By-law/the OLT Order during inspections of the Property on January 9, 22 and 23, 2026. These zoning violations were not contested by the Appellant—rather, they asserted that zoning non-compliance was not appropriate to consider in the context of a business license application.

[40] On this issue, it is the Committee's finding that the Appellant has failed to adduce sufficient compelling information that breaches of the OLT Order varying the zoning requirements are not appropriate to consider in the context of a business license.

[41] The Committee agrees with the Appellant that business licensing should not be used to enforce zoning or prohibit land use.

However, the Committee does not agree with the Appellant that breaches of zoning requirement in these circumstances are irrelevant in the decision to refuse to issue a business licence.

[42] In reviewing the *Prince George* Case Summary provided by the Appellant, the Committee notes that the situation is different than the circumstances of this Appeal. Specifically, in *Prince George*, the business for which a licence was sought was not in breach of a Zoning Bylaw and the refusal to issue a business licence was based solely on morality. In this Appeal, there has been a breach of the Zoning By-law and the OLT has ordered the Owner of the parking lot to provide a minimum number of parking spaces. The Owner has failed to abide by the OLT Order.

[43] In fact, it appears that the *Prince George* decision referenced by the Appellant supports that compliance with a municipality's zoning bylaw is an appropriate and relevant consideration in the context of business licensing. The *Prince George* Case Summary states that<sup>1</sup>:

"Part X of the Municipal Act is entitled "Licensing and Regulating." Section 458 of that part provides that the Council may by by-law delegate to any official designated in the by-law the power to grant a licence where he is satisfied that the applicant has complied with the by-laws of the municipality regulating building, zoning, health sanitation and business. There is no mention of moral considerations."(emphasis added).

[44] On this issue, the majority of the Committee accepts that the clear language of subsection 28(e) of the City's Bylaw permits the Issuer of Licences to refuse to issue a licence where the Applicant would be carrying on an activity in relation to the Business that would be in contravention of any other Bylaw. The Committee accepts that this would include the City's Zoning By-law and the OLT Order varying the requirements of the same.

[45] Both in light of *Prince George* decision, and the plain wording of the Bylaw, the Committee finds that breaches of the City's Zoning Bylaw/the related OLT Order are relevant and proper considerations in determining whether or not to issue a business licence in the circumstances.

[46] Based on the evidence and submissions provided, the Committee makes a finding of fact that the parking lot does not have the required number of spaces stated under the OLT Order. Parking

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<sup>1</sup> Part III – para 2.

enforcement would therefore be conducted in a parking lot that is undercapacity, in breach of the zoning requirements.

[47] With respect to the Appellant's assertion that the Appellant is a separate individual, and it is the Property Owner's breaches of the Zoning Bylaw that are at issue, the Committee does not accept that this makes the zoning breaches on the Property inappropriate to consider in this business licensing application.

[48] On this issue, the Committee finds that the breaches of the City's Zoning By-law requirements, as revised by the OLT Order, relate directly to the capacity of the specific parking lot where the Appellant seeks a license to enforce parking. This is the only location where the Appellant seeks to enforce parking.

[49] Further, when the Appellant was questioned by the Respondent on how they would enforce parking, the Appellant stated that that was up to her employer, who is effectively the Owner and is subject to the terms of the OLT Order.

[50] The Committee noted that the City has a responsibility when granting a private parking agent license. The parking agent is acting with authority of the City, and the City has a responsibility to ensure that this authority will be exercised in a manner that is ultimately fair to the Property's residents. The Committee had significant concerns with the fairness of enforcement given that the parking lot is below the capacity ordered by the OLT.

[51] In consideration of all the material and submissions made by both the Appellant and the Respondent, the Committee's recommendation is that the Private Parking Agent Licence (application #25-308946), as submitted by Applicant, Pramila Nepali, be refused. This recommendation is to be referred for consideration to the City's Council meeting taking place on April 21, 2026 at 6:00pm, at City Hall, located at 1 Carden Street, Guelph.

## **Table of Authorities**

### Statutes Considered:

*Municipal Act, 2001*, S.O. 2001, c. 25.

*Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22.

The Corporation of the City of Guelph Zoning By-law (1995)-14864.

The Corporation of the City Guelph Zoning By-law (2023)-20790.

The Corporation of the City of Guelph Private Property Parking By-law (1997)-15402.

The Corporation of the City of Guelph Procedure By-Law (2025)-21067.

### Cases Considered:

*Kovinic v. Niagara Falls (City)* [1999] O.J. No. 2322.

*Prince George (City) v. Payne* [1978] 1 SCR 458.