

ISSUE DATE:

Jan. 12, 2010



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL070533

Silvercreek Guelph Developments Limited has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the City of Guelph to redesignate land at 30 & 40 Silvercreek Parkway South from Industrial with Non-Core Greenlands Overlay to Community Commercial and Open Space to permit mixed commercial uses and open space
OMB File No.O070094

Silvercreek Guelph Developments Limited has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law (1995)-14864 of the City of Guelph to rezone lands respecting 30 & 40 Silvercreek Parkway South from Industrial (B.4) Zone to Specialized Community Commercial (CC) Zone to be known as the CC____ Zone and Floodplain (F) Zone and Community Park (P.3) Zone to permit a mixed use commercial development
OMB File No. Z070067

APPEARANCES:

Parties

Silvercreek Guelph Developments Limited
Armel Corporation
City of Guelph
Howitt Park Neighbourhood Residents Association

Counsel

Steven Zakem/Tom Halinski
Gordon Petch
Peter Pickfield/Susan Smith/Elizabeth Donaldson (student-at-law)
Robert Mullin/Ainsley Anderson (student-at-law)

DECISION DELIVERED BY J. de P. SEABORN AND ORDER OF THE BOARD

Background

Silvercreek Guelph Developments Limited (Silvercreek) has appealed from the refusal or neglect of the City of Guelph (City) to enact an Official Plan Amendment

(OPA) and Zoning By-law Amendment (By-law) required to facilitate a proposed mixed use commercial, retail and residential development for 35 & 40 Silvercreek Parkway South. Silvercreek's original application was submitted in November 2005 and appealed to the Board in July 2007. While the original proposal was modified by Silvercreek, City Council did not support the revised application but, nevertheless, did direct staff and City advisors to participate in, and report back to Council on any further discussions and/or mediation. Consequently, during the fall of 2008 the Board conducted several mediation sessions with the final result that Silvercreek, the City and the Howitt Park Neighbourhood Residents Association (HPNRA) executed detailed Minutes of Settlement (March 17, 2009), endorsing a further revised application. Armel Corporation (Armel) participated in portions of the mediation, however did not support the settlement reached between the other parties in respect of the revised application and is not a signatory to the Minutes of Settlement. Consequently the appeals in respect of the revised application are before me. Armel maintains its opposition to the project and takes the position that Council was correct in its earlier decisions not to support the application.

In support of its appeals, Silvercreek called the following witnesses to provide expert opinion evidence: Mr. Macaulay (land use planning); Mr. Tate (market impact analysis); Mr. Annand (land economist); Mr. Barrington and Mr. Middlebro (transportation and traffic); and Mr. Heinrichs (road geometrics). Witnesses who appeared on behalf of the City were: Dr. Clayton (market demand and impact analysis); Mr. Cook (employment land needs); and Mr. Hannah (land use planning). Armel called Mr. Mathew (land economist); Dr. Kircher (market impact analysis); and Mr. Morrison (land use planning). Mr. Foley, President of the HPNRA, testified on behalf of the local resident association. Mr. McGarr and Ms. Humpherries, participants, testified on their own behalf.

Site Description and Application

The planners described the site for redevelopment as a vacant triangular piece of land located between Paisley Road and Waterloo Street, with frontage on the east side of Highway 6, known as the Hanlon Expressway (the Hanlon). The parcel is vacant, bisected by Silvercreek Parkway South (Silvercreek Parkway) and bounded to the north

by the Canadian National Railway (CNR) main line and to the south by the Guelph Exeter Railway secondary rail line. About twenty two (22) hectares in size, the site is referred to locally as the Lafarge lands and until 1994 a concrete block plant operated at the site. A brownfield site that has undergone remediation, the property is designated "Industrial" under the City's Official Plan (OP), with the exception of Howitt Creek and its associated floodplain which is located at the east side of the property.

The proposal is to redevelop the entire parcel with a range of retail and service commercial uses, an office park, publicly owned market square connected to a neighbourhood park, a storm water management facility/open space and high density residential housing (which could include a retirement residence/ nursing home), with some prospect for affordable housing. To accommodate these uses, re-designations are proposed in the OPA (Exhibit 26). The By-law amendment (Exhibit 27) would amend the City's current zoning by-law to accommodate the new designations. The site is zoned B.4. Industrial which permits a range of industrial and accessory uses as well as service commercial and office uses within a mall. Both the form and content of the proposed OPA and By-law are reflected in the Minutes of Settlement, which also includes a series of conditions of Site Plan approval, albeit that matter is not before the Board.

The proposed OPA (Exhibit 26) is structured to amend the City's OP by adding a new policy Section 7.18 "Silver Creek Junction" and provides for distinct land use designations within the parcel. That portion of the parcel that fronts onto the Hanlon (sub area 1) and immediately to the east of Silvercreek Parkway (sub area 2) is proposed to be redesignated from "Industrial" to "Mixed Use Node". Silvercreek Parkway is currently a two-lane collector road with no curb or gutter. The land at the north end of the site and to the east of Silvercreek Parkway is proposed for redesignation from "Industrial" to "Specialized Corporate Business Park". The land at the south end of the site, and also to the east of Silvercreek Parkway, is proposed for redesignation to "High Density Residential". The balance of the parcel would accommodate a storm water management facility and provide open space and accordingly be redesignated "Open Space", with a small section identified as "Non-Core Greenlands Overlay (floodplain)". The OPA includes specific text and mapping changes, urban design objectives and policies, infrastructure requirements and policies for the requested land use designations.

Central to the development proposal and requisite land use redesignations necessary to implement the project are the infrastructure requirements which include: the provision of a grade separation at the intersection of Silvercreek Parkway and the CNR line; a storm water management solution that is intended to contain upstream flows from the Howitt Creek drainage area; the protection and rehabilitation of Howitt Creek and its related valleyland system; and the implementation of a high standard of urban design including a village market square serving as a pedestrian friendly focal point for the overall development (proposed OPA, Exhibit 26). Given the varying land use designations and need for infrastructure improvements, the Minutes of Settlement contemplate that the project be phased in over a period of several years.

The proposed Mixed Use Node would permit one large format retail store comprised of either a Warehouse Membership Club (WMC) or a Home Improvement Retail Warehouse (HIRW), ancillary retail stores (excluding supermarkets), and service commercial uses such as restaurants, financial institutions and personal services, office space above the commercial uses and live-work units. The area to be redesignated for a Specialized Corporate Business Park will permit a wide range of employment uses such as offices, research facilities, computer establishments and laboratories. The High Density Residential designation would permit apartment buildings (limited in height), nursing homes or retirement homes. The proposed by-law is detailed and would have the effect of re-zoning the property to accommodate the various official plan designations and includes specific regulations, prohibitions and a series of conditions, including registration on title of an executed Site Plan Agreement.

Issues and Minutes of Settlement

The main issue between Armel on the one hand and Silvercreek, the City, and the HPNRA on the other hand is whether this vacant parcel of industrial land should be re-designated to permit commercial and retail uses in light of the policies contained in both the 2005 Provincial Policy Statement (PPS) and the City's OP. Armel takes the position that the property (or any portion thereof) should not be redesignated from Industrial to a Mixed-Use Node. The redesignation would have the effect of depleting the City's available supply of industrial land (which includes employment land) and introducing new commercial/retail space in circumstances where existing designated

lands elsewhere in the City are neither fully occupied nor built out in accordance with existing permissions.

Mr. Petch was clear that his client's fundamental concern is the "creation of a new retail node" containing major retail uses in the form of a warehouse membership club or a home improvement centre. The position of Armel was that the site should be retained for non-retail employment uses. Accordingly Armel proposed that the developable portion of the site west of Howitt Creek remain designated as Industrial (which allows particular employment uses), but be re-zoned to permit corporate business uses. Alternatively, Mr. Petch urged the Board to simply redesignate the developable lands to any other site specific non-retail employment use (or even to medium/high density residential uses for the entire site) together with a site specific implementing zoning by-law. Simply put, Armel is opposed to the creation of a mixed use node on any portion of the Silvercreek site on the basis that the proposed redesignation is contrary to provincial and official plan policies, it is not needed and its approval will undermine the planned function of existing mixed use nodes.

In its support of the proposal and consistent with the Minutes of Settlement, Mr. Pickfield indicated that as a vacant, under utilized brownfield site located in the centre of the City it is in the public interest that the property be redeveloped. Moreover, history has shown that the site is unlikely to develop under its current permissions as significant employment lands within the planning horizon. Without the redesignation as requested, the site will likely remain underutilized and vacant, a circumstance that the City does not favour. Armel was critical of the City's approach and argued in essence that staff and experts got it right the first time and Council was correct in not approving the development proposal at its June 3, 2008 meeting. However, what is before me for approval is a different proposal which in Mr. Pickfield's submission addresses the City's original concerns, has the support of the neighbourhood association and is a product of extensive mediation resulting in the execution of detailed Minutes of Settlement.

The Minutes of Settlement were prepared following extensive mediation and while not determinative of the matter, are persuasive. While the City was opposed to the original proposals it concluded that substantial changes had been made by Silvercreek to warrant support for the project. Most significantly however is that the changes made directly respond to concerns expressed by both the planners and market analysis experts retained by the City. It is because of the modifications to the proposal

that the witnesses called by the City were able to provide opinion evidence in support of the proposed OPA and By-law. Significant changes from the original proposal (as revised) include:

- A reduction in retail floor space from 400,000 sq. ft. to 287,000 sq. ft. with a maximum of 100,000 sq. ft. of non food-oriented retail space. The revised proposal limits Silvercreek to a single anchor tenant (at 145,000 sq. ft.), either a WMC or HIRC but not both. This change was proposed to address the market impact concerns originally identified by the City.
- Major retail uses are restricted to the parcel of land west of the realigned Silvercreek Parkway South thereby eliminating land use conflicts between retail operations and existing residential uses east of Silvercreek Parkway and north and south of the lands. In essence, the size of the mixed use node is reduced under the revised proposal.
- An 18 metre public street will be constructed to provide access to future high density residential development, employment uses and parking for the market square as well as supporting activities in the park, trail system and transit service.
- The area east of Howitt Creek is required for storm water management purposes and will solve a long standing problem in this regard as well as provide a future link from the area to the public park.
- The north east parcel will be available for business-park employment purposes.
- The public dedication at the expense of Silvercreek of the lands required for the storm water management facility, public park and market square are assured through their incorporation in the Minutes of Settlement and zoning by-law holding conditions.
- The original proposal was essentially a single use retail development whereas the revised development concept contains a significant residential component and open space, an opportunity for affordable housing and the support of the HPNRA, also signatories to the Minutes of Settlement.

- The development will be phased with the first full year of operation of WMC or HIRC in 2013, (or after the removal of the proposed holding provision), with no occupancy for the final phase until March 1, 2015.

The Minutes of Settlement are detailed and included a draft OPA and Zoning By-law amendment, each of which were revised based on the evidence provided at the hearing. The key components of the project are set out in detail and evidence was provided at the hearing to support the agreements that have been reached. Furthermore, the Board is required to satisfy itself that the settlement is worthy of support from a planning perspective and not dictated by expediency.

Applicable Planning and Policy Regime

In evaluating the planning instruments under appeal, the Board is required to have regard to both matters of provincial interest and any decision of a municipal council that relates to the matter (Sections 2 and 2.1 of the *Planning Act* (Act)). The Act also stipulates that the Minister may issue policy statements on matters related to municipal planning that are of provincial interest (Section 3(1)) and a decision of the Board “shall be consistent with the policy statements issued under subsection (1)” and “shall conform with provincial plans that are in effect on that date, or shall not conflict with them, as the case may be” (Sections 3(5)(a) & (b)). In the case of Silvercreek’s appeals, the 2005 Provincial Policy Statement (PPS) is applicable whereas the *Growth Plan for the Greater Golden Horseshoe 2006* (Growth Plan) is not. Nonetheless, the planners agreed that while it is not determinative, conformity of the planning instruments with the Growth Plan is a factor to be considered in evaluating the development.

With respect to the City’s OP, the focus of the evidence was in respect of: the Commercial and Mixed Use Policies; the Industrial Policies; the mechanism provided under Section 9.3 with regard to official plan amendments; and the policies contained in OPA 29, adopted in March 2006 following the City’s Commercial Policy Review (CPR). OPA 29 established the current commercial structure in the City, which includes four mixed use nodes, criteria for establishing new mixed use nodes, intensification areas and the central business district.

Evaluation of the Issues and Findings

1. Creation of a New Mixed Use Node

As indicated at the outset, Armel's position is that the City does not require a new Mixed Use Node and further, that approval of the Silvercreek proposal would undermine the planned function of the existing nodes. The CPR, reflected in OPA 29, allocates enough retail and commercial space to accommodate the City's needs until 2021 and consequently another Mixed Use Node is simply not warranted. Allocated commercial and retail lands remain undeveloped and to add an additional node is contrary to the philosophy behind OPA 29 and the direction of Council.

The evidence was detailed with respect to the development of the CPR. There is no question that Council enacted policies that set out a road map for commercial and retail development in the City. In addition to the Mixed Use Nodes, and associated policies, OPA 29 identifies three Intensification Areas and the Central Business District. The Silvercreek site is not within any of these areas. The parameters for retail development for each of the four mixed use nodes are delineated in the City's OP (Policies 7.4.12 to 7.4.14). One of the identified areas is the Imperial Paisley Mixed Use Node, controlled by Armel. It is the planned function of this node in particular that Armel argues will be undermined in the event the Silvercreek application is approved.

In considering the issue of the "need" for a fifth mixed use node (and the related issue of impact to existing approved nodes), it is important to consider the context of the appeals. First, this is not a case of commercial competition. There has been no allegation of impact in the form of blight or service reduction that is deleterious to the overall commercial structure to the City. This is not a "store wars" case, with allegations of closure in the event the appeals are allowed. In fact, just prior to the hearing Armel secured the release of a restrictive covenant on the Imperial/Paisley lands which had prevented the establishment of a warehouse membership club. Either a home improvement centre or a warehouse membership club, such as Costco, could locate at that node if it chooses to do so.

Second, the only commercial interest in the City opposed to Silvercreek, or registered as a party to the proceedings is Armel. While this does not diminish the weight to be assigned to the evidence provided by Armel, it does underscore the fact that there is no widespread opposition to the approvals sought. Armel did file a letter of

objection from two commercial interests, although neither company had previously expressed a concern with respect to the application following execution of the Minutes of Settlement. The Zehrs supermarket at the Imperial Paisley Node is the largest supermarket in the City and there was no evidence to suggest that its stability would be affected by the proposal. The Silvercreek proposal specifically excludes supermarkets in its proposed Mixed Use Node. Competition or blight *per se* are not issues. What is at issue is whether Silvercreek has satisfied the tests under applicable OP policies to permit the specific redesignations it seeks.

Third, the Board has consistently determined that even if closure is alleged, it will not intervene to regulate competition. The impact has to be deleterious or harmful to existing facilities to the extent that the development will destroy the proper planned function of existing land uses and the planned commercial structure of the community (*Re Brampton Official Plan Amendment No. 208* [1993] O.M.B.D. No. 224). This is not a case of commercial competition and closure is not alleged. The appropriate context for considering the market impact evidence is in light of the official plan policies that govern the addition of an additional mixed use node and the more general requirements to be met prior to approval of an official plan amendment. In seeking an official plan amendment to add an additional mixed use node it must be demonstrated, through a market impact study, that there will be no detrimental impact to the Central Business District, the achievement of the City's goals, urban form policies or commercial and mixed use policy objectives will not be compromised, and that the ability of existing designated commercial or mixed use lands to achieve their planned function will not be compromised (Policy 7.4.49). It is therefore within the context of this policy requirement that the proposed OPA should be evaluated.

Mixed Use Nodes are intended, among other purposes, to provide a wide range of retail, service, entertainment and recreational commercial uses as well as complimentary uses, medium and high density residential development and small scale professional and medical offices. Armel suggests that it is entitled to rely on OPA 29 which established the commercial structure for Guelph, especially in the absence of an appeal of that OPA by Silvercreek. However, there is nothing in that policy framework that says there can be no change to the commercial structure. OPA 29 can be amended. The policies (Policy 7.4) provide that expansion of existing nodes or the establishment of a new node requires an official plan amendment (Policy 9.3) and supporting impact studies. Given this approach, OPA 29 does not freeze the number of

mixed use nodes until the next five year review. When OPA 29 was formulated, the Silvercreek proposal, albeit different from the application before the Board, was not rejected by the City as a potential mixed use node, but rather identified to be considered on its own merits as part of a separate planning process. The site was acknowledged as a candidate for a mixed use node under the CPR, but given the timing, further study was required, including a resolution of technical considerations and neighbourhood consultation. As early as 2005 the Meridian Report, which recommended the approach to be taken for the CPR, the City indicated that the Silvercreek (then Lafarge) site may offer an opportunity for a second location for large format retail uses, closer to existing populations and closer to the downtown. As submitted by Mr. Zakem, excluding the Silvercreek site as a mixed use node in OPA 29 was not reflective of the merits of the proposal. Nevertheless, it is clear on the evidence that the City was not supportive of the original project and its experts and staff had serious reservations about the impact of the development on existing mixed use nodes and the central business district.

In accordance with official plan policies, Silvercreek retained Tate Economic Research Inc. to undertake a market impact and demand analysis. Mr. Tate's study was based on the original proposal which included: 150,000 sq. ft. for a WMC and 80,000 sq. ft. for a HIRC, plus other non-food oriented retail space and service commercial (scenario one); or 150,000 sq. ft. for a WMC, no HIRC, but 180,000 of non-food oriented retail space, plus service commercial (scenario two). The initial position of the City, provided in Dr. Clayton's Peer Review, was that there was sufficient retail and service commercial floor space allocated through the CPR until at least 2016. Dr. Clayton indicated in the Peer Review that while he was not convinced that a WMC could be attracted to Guelph, if it were to locate on the Silvercreek lands the impacts would be in an acceptable range. He also indicated that both a HIRC and a WMC located on the site along with the other floor space planned would be expected to result in large negative sales impacts on existing retail facilities. Arnel submitted that in effect Dr. Clayton's Peer Review was an accurate analysis of the market impacts and ought to be relied upon (along with opinions of Dr. Kircher) in considering the need for a new mixed use node in the City and its impact to the commercial structure.

In evaluating the revised proposal Dr. Clayton concluded that approval of the Silvercreek project will not undermine the planned function of either the Imperial Paisley Node (or the planned function of any other node or the Central Business District) or cause it to be reduced to a neighbourhood commercial function as suggested by Arnel.

In this regard I accept Dr. Clayton's opinion (and the opinions of Mr. Tate), for the reasons set out below.

First, Silvercreek has complied with the requirements of Policy 7.4 and Policy 9.3 in seeking an official plan amendment and undertaking the requisite market impact analysis necessary for the lands to be considered for a new mixed use node. Silvercreek has, in short, met these planning requirements. There is no allegation of closure and the evidence does not support a conclusion that the ability of the Imperial Paisley Node to achieve its planned function will be compromised as a result of the Silvercreek proposal. This conclusion is underscored by the fact that there is no barrier to large scale retail development locating at Imperial Paisley. The fact that there are designated undeveloped lands within the existing nodes cannot alone be a barrier to Silvercreek.

Second, the proposed re-designation to a Mixed Use Node is only for a portion of the site. The revised proposal scales back the retail and commercial space initially sought. In this regard, it is significant that Mr. Tate's original analysis prepared for Silvercreek and his evidence was that even at 400,000 sq. ft. there would be no detrimental impact to the commercial structure. While Dr. Clayton disagreed, he did evaluate the revised proposal and concluded that it will not undermine the planned function of the commercial structure. The CPR identified 500,000 sq. ft. of commercial space as a reserve. By scaling back the development Silvercreek answered one of the City's original objections to the 400,000 sq. ft. proposal which was that the magnitude of commercial development at one site would be opposed to a City objective of dispersing and distributing retail and commercial space. The reduction in the overall size of the Mixed Use Node to a portion of the site was clearly instrumental in the City's decision to support the planning instruments under appeal, subject of course to the detailed conditions set out in the Minutes of Settlement.

Third, as indicated at the outset, there is no allegation of deleterious impact or blight flowing from approval of a new mixed use node. Yet, the focus of the evidence and assumptions made by Dr. Kircher was that there would be a market impact to the Imperial Paisley Node if Silvercreek is approved for commercial and retail uses. On this point it is not necessary to repeat all of the evidence of the market experts. Suffice to say that the Board is reluctant in even compelling cases to intervene in the market. In this instance there is no allegation of closure and Armel, through its own evidence has

indicated that it can locate a large retail centre such as a WMC at Imperial Paisley given that the restrictive covenant previously in place has been lifted. Simply put, the planned function of Imperial Paisley will not be undermined.

2. Residential Uses

As part of its revised development concept Silvercreek proposes that approximately 2.1 hectares (or about 12% of the site) be redesignated from Industrial to High Density Residential. The original development concept did not include a residential component however pursuant to the Minutes of Settlement Silvercreek is required to develop high density residential units at the south end of the site and to the east of Silvercreek Parkway (following realignment). In addition, the Minutes provide a mechanism for the City to purchase a portion of the site and develop affordable housing. While Armel is sceptical that the option would ever be pursued, it is available to Council and exists as a potential benefit to the City.

There was no significant issue between the parties with respect to the concept plan as it relates to high density residential development and associated open space. I accept the opinions of the planners that the site is suitable for high density development. What is at issue is whether first, Silvercreek has met the test under the PPS to convert industrially designated lands to non-employment uses; and second, how much of the site is proposed for conversion. Armel takes the position that even though the draft OPA only identifies 2.1 hectares for residential designation, the entire site could, under the proposed planning instruments, be developed solely for residential uses. Armel submitted that this is an unwarranted conversion of employment land that is not consistent with the provisions of the PPS. This issue is addressed below under the discussion of the evidence surrounding conversion of industrial (employment) land to non-employment uses.

3. Conversion of Industrial (Employment) Lands

The Silvercreek site is designated Industrial (which includes employment uses) and therefore Armel took the position that approval of the planning instruments is a conversion of employment land to non-employment uses, contrary to both section 1.3.2 of the PPS and the overall objectives of the industrial policies in section 7.7 of the City's OP. Although the test for conversion under the Growth Plan does not apply to the application, the City indicated that population projections, employment projections, and

the density targets that Guelph has to achieve in the planning horizon to 2031 are relevant factors to consider in applying the test for conversion of employment lands under the PPS.

Pursuant to both the PPS and Growth Plan, the province has directed municipalities to protect and preserve existing employment lands for future employment needs. Accordingly, the PPS requires municipalities to undertake what is referred to as a comprehensive review prior to converting land within employment areas to non-employment uses:

1.3.2 Planning authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.

The PPS defines a comprehensive review as an official plan review initiated by the planning authority or an official plan amendment initiated or adopted by a planning authority, both of which have required elements. In this instance, there is no dispute that the City has undertaken an Employment Lands Strategy (ELS) in conjunction with the City's Local Growth Management Strategy (LGMS) and the five year review of its official plan. There was considerable detailed evidence provided by Mr. Cook in this regard and clearly the requisite comprehensive review has been undertaken. However, Armel argued that the work of Watson and Associates and Mr. Cook fails to demonstrate that the Silvercreek site is not needed for employment purposes over the long term and that there is a need for the conversion.

I find that the application to redesignate the Silvercreek site to a Mixed Use Node, Specialized Corporate Business Park, High Density Residential and Open Space is consistent with the policies contained in the PPS and while not directly applicable, conforms to the Growth Plan. First, both the provincial interest and the goals and objectives of the PPS are achieved by the Silvercreek proposal. Policy 1.1.1 of the PPS stipulates that "healthy, liveable and safe communities are sustained by" (among other mechanisms): promoting efficient development; "accommodating an appropriate mix of residential, employment (including industrial, commercial and institutional uses), recreational and open space uses to meet long-term needs"; and, "avoiding development which may cause environmental or public health and safety concerns". The policies of the PPS must be read in their entirety such that no one land use

designation is intended to trump another. Second, the re-designation anticipates retail and commercial employment uses on the site. The Board has found that the term "employment" within the PPS must be broadly defined to include retail employment. Accordingly, as depicted in the concept plan, the only conversion of employment land to non-employment uses at the Silvercreek site is the 2.1 hectares parcel proposed for high density residential. The redesignation to Mixed Use Node and Specialized Corporate Business Park is not a conversion under the PPS of employment lands to non-employment uses.

Third, in this instance, a comprehensive review has been undertaken by the City as required under both the PPS and the Growth Plan. The result of the comprehensive review, which I accept based on the detailed evidence provided in this regard, is that the City has an adequate amount of currently designated employment lands to 2031. There were many examples provided of existing corporate business parks where either existing buildings are vacant or additional development is already approved, yet not built. Consequently, regardless of whether only 2.1 hectares of the site is proposed for conversion to non-employment uses (area slated for high density residential) or whether the entire site is potentially being converted (in the event more residential is applied for in the future) there is sufficient employment land available within the City's existing built boundary to serve future needs. On this point the City was clear. It was not prepared to support the proposal until it was satisfied that removing the site (or portions thereof) from an industrial designation is in the public interest and meets the City's long term planning objectives.

4. Non-retail Commercial Uses-Corporate Business Park

Silvercreek proposes to include a corporate business park as part of the project. The difference between the parties on this issue was one of magnitude. Armel argues that the entire site should be designated for non-retail employment uses and its proximity to the Hanlon and central location within the City makes it ideal for this purpose. Based on the evidence of the planners, the site is appropriate for non-retail employment purposes and the redesignation of a portion of the site to accommodate a corporate business park represents good planning and is supported by the policies contained in the City's OP. For reasons already given, the fact that the site is suitable for non-retail commercial uses does not mean that the entire site should be designated for this sole purpose.

5. Traffic

Mr. Petch indicated during the course of the hearing that concerns previously raised in connection with potential traffic impact were resolved and accordingly with the exception of one matter, Armel's issues with respect to transportation and engineering were withdrawn. The Ministry of Transportation indicated several years ago (in the early planning stages) that access to the parcel directly from the Hanlon is not supportable. Silvercreek revised its original approach and in due course prepared a traffic impact study. Messrs. Barrington and Middlebro concluded that the development traffic can be supported subject to specific upgrades, which are agreed to between the City and Silvercreek. It is clear that a grade separation crossing of the CNR tracks and Silvercreek Parkway is required to facilitate site access, regardless of the type of development at the site. The underpass has been identified in the City's OP for several years and its technical feasibility (including environmental assessment requirements) was described by Mr. Heinrichs. Armel questioned the provisions of the applicable DC by-law, expressing concern with regard to the City and Silvercreek's respective financial obligations, and the calculation and apportionment of those obligations. Based on the evidence I am satisfied that the City and Silvercreek can reach a consensus with regard to their respective financial obligations and the underpass represents a public benefit. Mr. McGarr, who testified on his own behalf, has an individual concern with respect to access to his property which Silvercreek (and the City) will address as part of detailed site planning. In addition, the City and Silvercreek are working to satisfy any outstanding comments made by the Ministry of Transportation. The Minutes of Settlement reflect that the local resident concerns in respect of traffic are satisfied.

Position of Resident's Association

The HPNRA are signatories to the Minutes of Settlement. Mr. Foley testified that the association worked diligently with Silvercreek and the City to develop a number of the conditions that are reflected in the settlement. Ms. Humphries testified that the agreement reached was the best the residents could achieve; however, as an individual participant she did not support the development of the site for retail purposes. Mr. Mullin submitted that community support for the proposal is a factor to be considered by the Board, a submission I accept. Experts were retained by the HPNRA, however it

was determined that their testimony was not required as the opinions to be provided to the Board were consistent with those offered by Silvercreek and the City.

Mr. Foley was clear in his evidence that the HPNRA supports the modified application because it: reduces the amount of commercial floor space; creates major retail uses west of Silvercreek Parkway; creates a business park; introduces a residential component to the parcel; retains significant green space; includes provisions for phasing; and, allows for the residents to participate in the site plan process.

Decision

For all of the reasons given the decision of the Board is to allow the appeals. In arriving at this decision, I have had regard to matters of provincial interest and the decision of Council, as reflected in the Minutes of Settlement. Approval of the Silvercreek proposal is consistent with policy statements issued under section 3(5) of the Act and conforms to provincial plans. Accordingly, the Official Plan for the City of Guelph is amended as set out in Attachment "1" to this Order (Exhibit 26), and as amended is approved. By-law (1995) - 14864, as amended, is further amended in the manner set out in Attachment "2" (Exhibit 27) to this Order. The Board authorizes the municipal clerk to assign a number to this by-law for record keeping purposes.

This is the Order of the Board.

"J. de P. Seaborn"

J. de P. SEABORN
VICE CHAIR

ATTACHMENT "1"

AMENDMENT NO. **

TO THE

OFFICIAL PLAN

FOR THE CITY OF GUELPH

AMENDMENT NO. **

TO THE

OFFICIAL PLAN FOR THE CITY OF GUELPH

PART A - THE PREAMBLE The Preamble contains the rationale and certain background information in support of the amendment. The Preamble does not form part of this amendment.

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

PART C - THE APPENDICES, do not form part of this amendment, but contain background information relevant to the amendment.

PART A - THE PREAMBLE

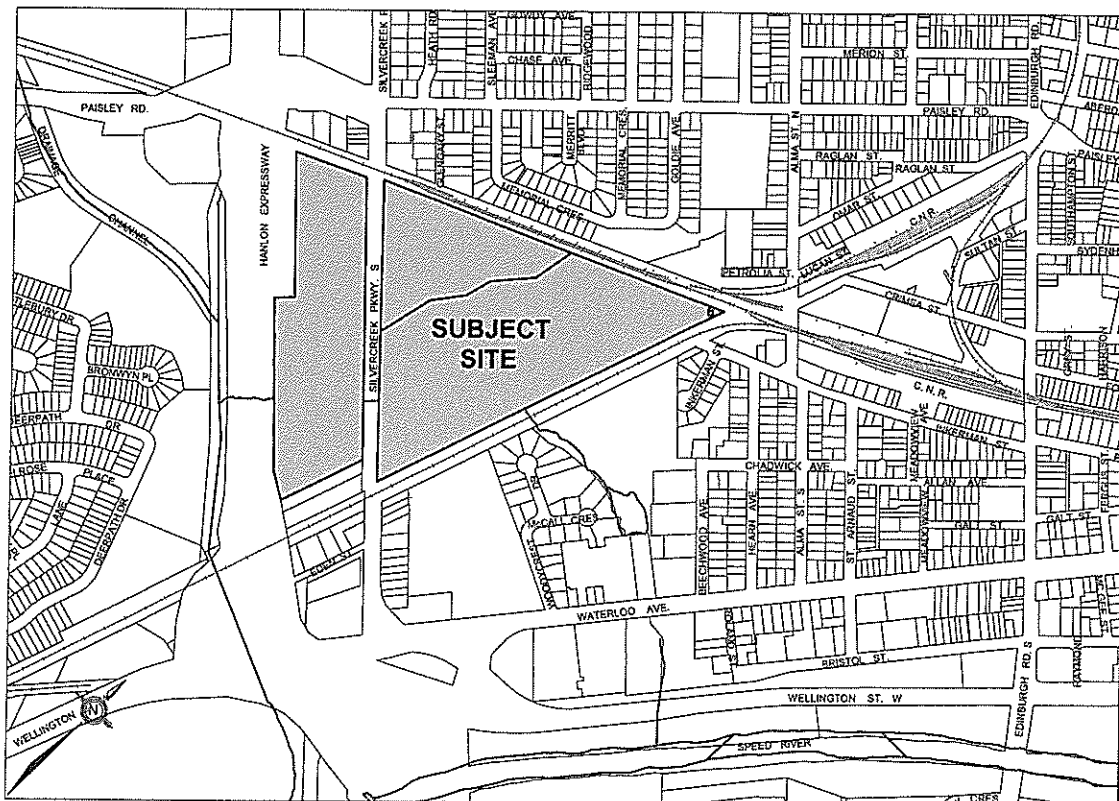
PURPOSE

The purpose of Official Plan Amendment No. ** is to redesignate the former Lafarge lands on Silvercreek Parkway South from Industrial to a number of different land use designations to allow a contemporary mixed use development. The amendment also includes specific policies for the development of the area to be known as the “Silver Creek Junction”. These include Urban Design objectives and policies, infrastructure requirements and specific policies for the various land use designations which include:

- Mixed Use Node;
- Specialized Corporate Business park; and
- High Density Residential.

LOCATION

The subject property affected by this proposed amendment is a vacant parcel of land located both east and west of Silvercreek Parkway South and bounded to the north by the Canadian National Railway main line, to the south by the Guelph Exeter Railway secondary line, and to the west by the Hanlon Parkway (see location map below).



BASIS

Approval of the amendment would be consistent with the Provincial Policy Statement.

The modified application also conforms to the intent of the Growth Plan for the Greater Golden Horseshoe. The proposed amendment would allow a compact, mixed use, pedestrian friendly intensification of a brownfield site within the built boundary of the City of Guelph that meets the guiding principles and policies set out by the Growth Plan for the Greater Golden Horseshoe.

The proposed amendment conforms to the policies of the City's Official Plan including:

- The modified application conforms to the Commercial Policy structure of the City as set out by Official Plan amendment No. 29 which implemented the results of the Commercial Policy Review for the City of Guelph.
- The application has specifically satisfied the tests for the establishment of a new mixed use node set out by Sections 7.4.49 to 7.4.52 of the Official Plan.
- The proposed Official Plan amendment appropriately satisfies the matters to be considered under Section 9.3 of the Official Plan.
- The modified proposal meets the policies pertaining to the development of mixed use nodes found in Sections 7.4.5 to 7.4.14. of the Official Plan.
- The proposed high density residential component of the proposal conforms to the applicable residential policies in Section 7.2 of the Official Plan.

Approval of the application represents good planning for all of the above reasons, and in addition, would achieve a number of public interest objectives and benefits, including the following:

- redevelopment of a large, centrally-located, derelict brownfield site which has been vacant and unused since it ceased its final productive industrial use in the mid-1990's;
- provision of a long-planned grade separation at the intersection of Silvercreek Parkway and the CNR;
- a stormwater management solution that would contain upstream flows from the Howitt Creek drainage area, during major storm events;
- protection and rehabilitation of Howitt Creek and its related valleyland system which

bisects the site; and,

- implementation of a high standard of urban design, including the creation of a central, public “village market square” as a distinctive focal point for this overall redevelopment precinct.

PART B – THE AMENDMENT

All of this section entitled “Part B – The Amendment” constitutes Amendment No. ** to the Official Plan for the City of Guelph.

Details of the Amendment

The Official Plan for the City of Guelph is amended as follows:

- Item (1)** Schedule 1 - Land Use Plan of the Guelph Official Plan is hereby amended by changing the “Industrial” land use designation applying to the subject lands, which comprise the former Lafarge lands, to “Mixed Use Node”, “Specialized Business Park”, “High Density Residential” and “Open Space”, which are noted as “Silver Creek Junction” as per the attached Schedule “A”
- Item (2)** The Official Plan is amended by adding a new Section 7.18 “Silver Creek Junction”.

Section 7.18 “Silver Creek Junction”

These policies apply to the area highlighted and noted as “Silver Creek Junction” on Schedule 1 – Land Use Plan.

In addition to the general Urban Design objectives and policies of subsection 3.6, the following urban form statement, objectives and policies apply to the Silver Creek Junction lands.

7.18.1 Urban Form Statement – Silver Creek Junction

The area contains the former LaFarge lands, an abandoned brownfield site, straddling Silvercreek Parkway between the CNR and Goderich and Exeter (GEXR) rail-lines south of Paisley Road, abutting the Hanlon Expressway. Redevelopment of these lands shall be focused around the creation of a central, urban “village market square” straddling Silvercreek Parkway which will assist in creating a neighbourhood composed of a mix of land uses.

The public village market square feature will be complemented by a cohesive, mixed-use redevelopment scheme permitting a range of land uses, including large-format and specialty retail, a range of employment uses, institutional uses, high density residential uses and open space on the surrounding lands. The central village market square area will house a limited range and scale of specialized service commercial uses, mixed use and live work arrangements that are intended to serve the surrounding employment and residential uses.

The redevelopment scheme on the subject lands shall also incorporate a new neighbourhood-scale public park that links the central village market square to the Howitt Creek valley to the east. The development will also involve the re-alignment of a portion of the existing Silvercreek Parkway through the central

part of the lands, to the extent appropriate, to optimize a functional and cohesive layout of the mix of uses proposed. A new local public road east of re-aligned Silvercreek Parkway will also be developed to provide frontage and access for the above-noted neighbourhood park and a series of viable redevelopment blocks for employment and high density residential uses in the area between Howitt Creek and Silvercreek Parkway.

7.18.2 Urban Form Objectives – Silver Creek Junction

- a) To provide a desirable mix of compatible land uses that include a variety of building types to minimize travel requirements between homes and places of employment or shopping.
- b) To ensure an innovative development, which reflects the City's commitment to environmental sustainability, compact development and energy conservation.
- c) To enhance the function and naturalization of Howitt Creek and provide pedestrian views and access to this feature.
- d) To provide active and passive recreational opportunities to help fulfill the City's recreational and open space requirements.
- e) To create a variety of public spaces (streets, squares, and parks and open spaces) that encourage social interaction and provide pedestrian connections throughout the development.
- f) To require high quality built form oriented to all streets, including Silvercreek Parkway, throughout the development.

7.18.3 Urban Design Policies – Silver Creek Junction

- a) Public streets will be developed to provide a high quality urban environment with reduced setbacks, street trees and other landscape features and on-street parking.
- b) Parking areas, loading and other less desirable design elements will be screened from public streets by buildings or landscaping.
- c) Outdoor storage of goods or materials shall be prohibited with the exception of seasonal products.
- d) The development will include extensive landscaping and plantings associated with the development shall generally be native trees and ground cover.
- e) Public safety and security will be considered in the development including the optimum visibility of public open spaces, adequate lighting, multiple pedestrian routes and opportunities to control the speed of vehicles.
- f) Reduced parking standards shall be considered for all land use components within the development to encourage alternative transportation alternatives.

7.18.4 Infrastructure Requirements – Silver Creek Junction

Redevelopment of the former Lafarge lands is dependent upon certain key improvements to public infrastructure, most notably:

- 1) the construction of a grade-separated crossing of the CN main line by an

- improved Silvercreek Parkway;
- 2) the extension of Silvercreek Parkway northward to connect with Paisley Road; and;
- 3) the construction of a new stormwater management facility on open space lands east of Howitt Creek, to accommodate existing off-site (upstream) storm flows during major storm events.

The site-specific implementing zoning provisions shall include the use of holding "H" provisions to address required infrastructure improvements, including the Silvercreek Parkway/CNR underpass, other required road projects and traffic improvements, the remedial stormwater management facility, related land dedications (i.e. for roads, stormwater management, parks and open space) and the pre-requisite site plan approval and registration of the related agreement on title to the subject lands, prior to the redevelopment of the lands.

7.18.5 Land Use – Silver Creek Junction

The Silver Creek Junction lands are designated "Mixed Use Node", "Specialized Corporate Business Park", "High Density Residential" and "Open Space" on Schedule "A" and shall be subject to the following site-specific policies for the applicable designations:

7.18.5.1 Mixed Use Node:

The Mixed Use Node is intended provide a wide range of retail, service entertainment and recreational commercial uses as well as complementary uses including open space, institutional, cultural and educational uses, hotels, and live work studios. Medium and high density multiple residential development and apartments shall also be permitted in accordance with the policies of Section 7.2.

The policies contained in Sections 7.4.4 to 7.4.11 shall apply to the Mixed Use Node.

The Silver Creek Junction Mixed Use Node is divided into 2 Sub Areas as follows:

Sub Area 1:

A maximum of 22,760 sq m (245,000 sq. ft.) of retail gross leasable floor space shall be permitted in Sub Area 1 only as shown on Schedule "A". This total floor area will be composed of:

- a) a maximum of one (1) large-format retail store comprised of either a warehouse membership club or a home improvement retail warehouse, to a maximum gross floor area of 13,470 sq. m (145,000 sq. ft.),
- b) ancillary retail stores (excluding supermarkets), to a maximum aggregate gross floor area of 9,300 sq. m (100,000 sq. ft.), in a minimum of at least two (2) separate buildings, to be located in Sub-Area 1 only as shown on Schedule "A" to this amendment, subject to a maximum retail unit size of 3,716 sq. m (40,000 sq. ft.).

Commercial development in this area shall incorporate a reduced retail parking standard, to be established through the site-specific implementing zoning provisions.

Appropriate phasing requirements shall be imposed on the retail commercial components in Sub Area 1 through appropriate implementing zoning provisions.

Sub Area 2:

The maximum of 3,900 sq. m (42,000 sq. ft.) of service commercial gross leasable floor shall be permitted in Sub Area 2 only as shown on Schedule "A". This area shall be subject to a restricted range of service commercial uses, to be established in the implementing zoning by-law; the policy intention is to focus on true convenience-oriented service uses to serve the neighbourhood such as restaurants, financial institutions and personal services. The range of permitted uses will also allow a mixed use design with residential or office space permitted above ground floor commercial and live-work arrangements. A minimum building massing equivalent to two (2) storeys (7.6m) shall be achieved in the buildings adjacent to the central "village market square." Buildings shall be located close to the street line with primary entrances facing the street and grouped in manner to reinforce the limits and identity of the village market square focal point. Reduced building setbacks shall also be encouraged from the public streets, to help define the streetscape and enhance the pedestrian environment.

Commercial development in this area shall incorporate a reduced parking standard, to be established through the site-specific implementing zoning provisions.

7.18.5.2 Specialized Corporate Business Park

Within the "Specialized Business Park" designation on the east side of Silvercreek Parkway adjacent to Howitt Creek, development shall conform with Section 7.9 of this plan and the following:

- a) permitted uses shall include a range of employment activities including offices, research and development facilities, computer establishments and laboratories that are compatible with the adjacent residential uses. Complementary uses such as institutional (schools and religious establishments), a public or private recreational facility or club, as well as high density residential uses shall also be permitted provided that they are limited in scale and do not detract from the primary development of the lands for employment purposes; and,
- b) reduced building setbacks and minimum building heights shall also be required, to help define the streetscape and enhance the pedestrian environment.

7.18.5.3 High Density Residential

Within the “High Density Residential” designation on the east side of Silvercreek Parkway adjacent to Howitt Creek, development shall conform with the Sections 7.2.41 to 7.2.46 of this plan and with the following:

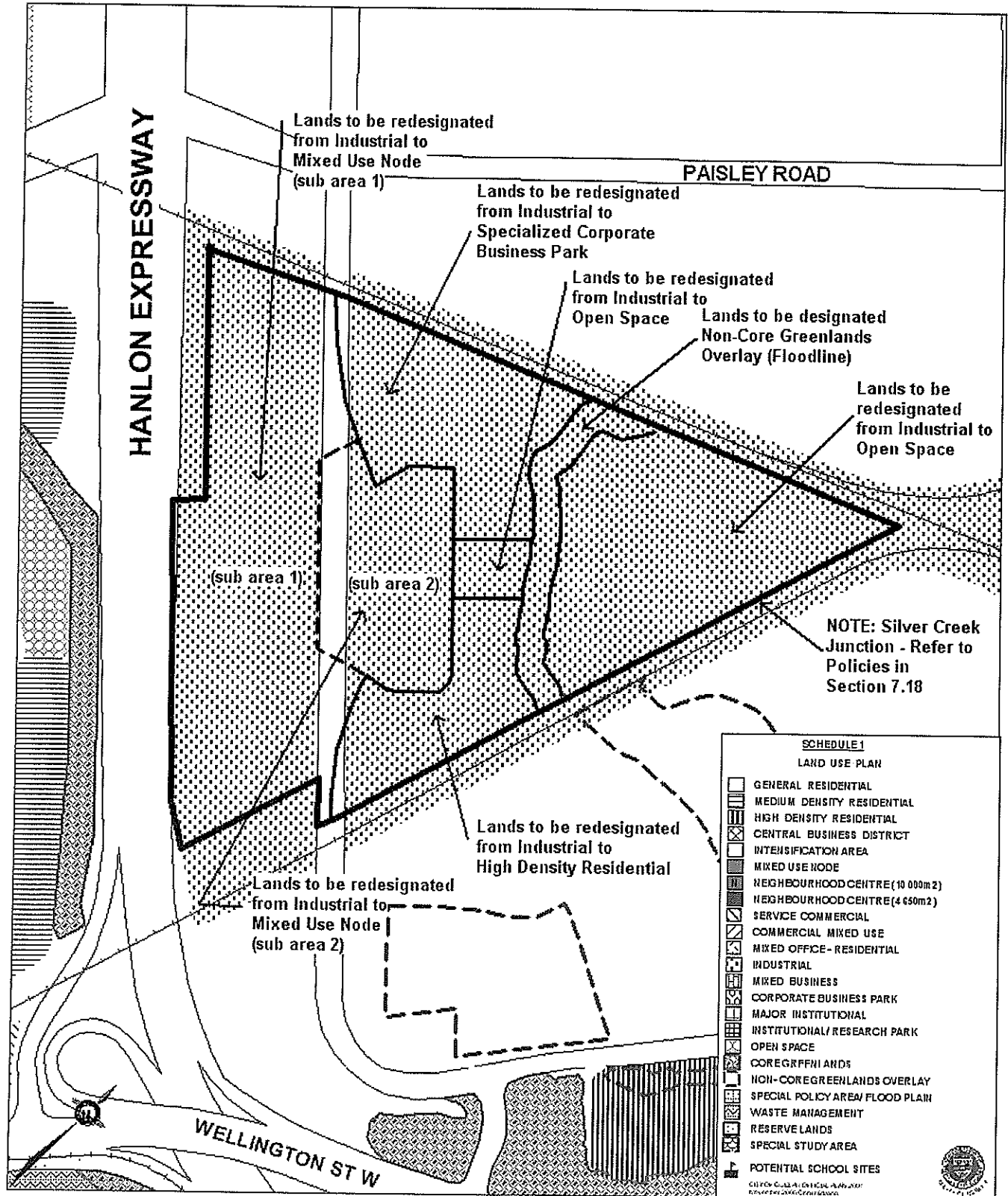
- a) residential development may take the form of individual apartment buildings on separate parcels, or a single cohesive scheme comprising several buildings and may include Nursing or Retirement homes;
- b) development shall generally occur in buildings ranging in height from 3 to 8 storeys, provided that the height and massing of buildings shall be sensitive to the proximity of these lands to existing low density residential development to the southeast, on the opposite side of the Goderich and Exeter (GEXR) rail line adjacent to the south edge of the site; Further floor space indices (FSI) may be used to control the design of the developments; and,
- c) notwithstanding the density provisions of Policy 7.2.43, the minimum net density of residential development of the subject lands shall be 175 units per hectare; the intention of this site-specific policy is to require a minimum of 350 residential units to be developed on these lands.

Item (3)

Section 7.4.12 of the Official Plan setting out retail floor space allocations for the designated Mixed Use Nodes shall be amended to add the westerly portion of the subject site, as a fifth designated Mixed Use Node, as follows:

- Silver Creek Junction: 22,760 sq. m. (245,000 square metres) subject to the specific restrictions set out in Section 7.18.5.1.

**SCHEDULE "A" TO
OFFICIAL PLAN AMENDMENT # _____
CHANGES TO SCHEDULE 1 - LAND USE PLAN**



PART C - THE APPENDICES

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

THE CORPORATION OF THE CITY OF GUELPH

By-law Number (2009)-*****

A by-law to amend By-law Number (1995)-14864, as amended, known as the Zoning By-law for the City of Guelph as it affects property known municipally as 35 and 40 Silvercreek Parkway South (File Number OP0506/ZC0516).

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

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

1. By-law Number (1995)-14864, as amended, is hereby further amended by transferring property legally described Part of Lots 2 and 3, Concession 1, Division "F" (formerly Guelph Township), and Part of Lots 7, 8, 9, 11, 12, D and E, all of Lot 10, West side of Guelph & Galt Railway, Part of Napoleon Street (closed by Order Instrument No. BS12480), Registered Plan 52, designated as Part 1, 61R10726; and Part Lots 3, 21 and 22, Division "A" (formerly Guelph Township), designated as Part 3, 61R10726 and known municipally as 35 and 40 Silvercreek Parkway South from the existing B.4 (Industrial) Zone to a new Specialized CC-X (HX) (Community Shopping Centre Holding) Zone, a new Specialized SC.1-X (HX) (Service Commercial 1) Zone, a new Specialized B.5-X (HX) (Corporate Business Park Holding) Zone, a new Specialized R.4A-X (HX) (Residential General Apartment Holding) Zone, a P.2 (Neighbourhood Park) Zone, a FL (Floodway) Zone and a P.1 (Conservation Land) Zone, in order to permit a mixed use development in accordance with the provisions of Sections 6.2.3.2, 6.4.3.1, 7.3.5, 5.4.3.1, 9 and 12 of By-law (1995)-14864, as amended.
2. Section 6.2.3.2 of By-law (1995)-14864, as amended is hereby further amended by adding a new subsection 6.2.3.2.X:

6.2.3.2.X CC-X (HX)
 35 and 40 Silvercreek Parkway South
 As shown on Defined Area Map Numbers 10 and 15

6.2.3.2.X.1 Permitted Uses

All uses permitted by Section 6.2.1.2 with the following additions

- maximum of one (1) Large-Format Retail Establishment, which may be either a Warehouse Membership Club or a Home Improvement Retail Warehouse Establishment
- Apartment Building
- Stacked Townhouse
- Cluster Townhouse

6.2.3.2.X.2 **Prohibited Uses**

- A Supermarket

The following definitions shall apply in the CC-X (HX) Zone:

A “Large-Format Retail Establishment” shall mean a Retail Establishment with a minimum gross floor area of 9,300 sq. m (100,000 sq. ft.)

A “Warehouse Membership Club” shall mean a Retail Establishment engaged in the retailing to club members of a wide range of non-food items and services, in combination with a general line of food-related products, where the goods, wares, merchandise, substances or articles are displayed, stored and sold in a warehouse format. The warehouse format means a configuration where the floor area devoted to sales is integrated with the storage of things sold and is accessible to patrons of the Warehouse Membership Club.

A “Home Improvement Retail Warehouse Establishment” shall mean a building where a full range of home furnishings and home improvement products are displayed, stored and sold in a warehouse format. Such products may include but are not limited to a combination of furniture, appliances, electrical fixtures, lumber and building supplies, hardware, carpets and floor coverings, home décor items, landscape and garden supplies, and plumbing fixtures.

A “Supermarket” shall mean a lot and a building, or structure, or portion thereof, having a gross floor area in excess of 465 m² in which primarily food produce is stored, offered, and kept for retail sale and as an accessory use, items or merchandise of day-to-day household necessity may be stored, offered, or kept for retail sale but shall not include a Warehouse Membership Club.

6.2.3.2.X.3 **Regulations**

In accordance with the regulations of the CC Zone as specified in Sections 4 and 6.2.2 (Community Shopping Centre Zone regulations) of Zoning By-law (1995)-14864, as amended, with the following additions and exceptions:

6.2.3.2.X.3.1 **Maximum Total Gross Floor Area for all Retail Establishments**

22,760 sq. m (245,000 sq. ft.)

6.2.3.2.X.3.2 **Maximum Gross Floor Area for a Large-Format Retail Establishment**

13,470 sq. m (145,000 sq. ft.)

6.2.3.2.X.3.3 **Maximum Total Gross Floor Area for all Retail Establishments other than a Large-Format Retail Establishment**

9,300 (100,000 sq. ft.), subject to the following:

- such floor area shall be located in a minimum of two (2) separate buildings
- Building permits shall be issued no sooner than September 1, 2012 for up to 5,200 sq. m (56,000 sq. ft.) of the above Aggregate Gross Floor Area
- Building permits shall be issued no sooner than September 1, 2014 for the remaining balance of the permitted maximum aggregate Gross

Page 3
of By-law Number (2009)-*****

Floor Area

- minimum unit size shall be 465 sq. m (5, 000 sq. ft.), and maximum unit size shall be 3,716 sq. m (40,000 sq. ft.)

6.2.3.2.X.3.4 Minimum Off-Street Parking

The minimum off-street parking required for all permitted commercial uses shall be 1 space per 23.2 sq. m (250 sq. ft.) of Gross Floor Area

6.2.3.2.X.3.5 Regulations for Apartment Buildings

All Apartment Buildings shall be developed in accordance with the R.4B provisions of Section 5.4.2 of Zoning By-law (1995)-14864, as amended.

6.2.3.2.X.3.6 Regulations for Cluster and Stacked Townhouses

All Cluster or Stacked Townhouses shall be developed in accordance with the regulations of Section 5.3.2 of the Zoning By-law (1995)-14864, as amended.

6.2.3.2.X.3.7 Severability Provision

The provisions of this By-law shall continue to apply collectively to the whole of the lands identified on Schedule "A" as CC-X (HX), despite any future severance, partition or division for any purpose.

3. Section 6.4.3.1 of By-law (1995)-14864, as amended is hereby further amended by adding a new subsection 6.4.3.1.X:

6.4.3.1.X **SC.1-X (HX)**

Silvercreek Parkway South

As shown on Defined Area Map Numbers 10 and 15

6.4.3.1.X.1 Permitted Uses

Despite the uses permitted by Section 6.4.1.1 the uses in the SC.1-X zone shall be limited to the following:

- Restaurant
- Restaurant (take-out)
- Medical Office
- Personal Service Establishment
- Travel Agent
- Convenience Store
- Financial Establishment
- Day Care Centre
- Dry Cleaning Outlet
- Video Rental Outlet
- Office
- Artisan studio
- Art Gallery
- Florist
- Bake Shop
- Commercial School
- Veterinary service
- Catering service
- Dwellings units with permitted commercial uses in the same building

in accordance with Section 4.15.2

- Live-Work Units
- Accessory Uses in accordance with Section 4.23
- Occasional Uses in accordance with Section 4.21

The following definitions shall apply in the SC.1-X Zone:

A “Live-Work Unit” shall mean a dwelling unit, part of which may be used as a business establishment and the dwelling unit is the principal residence of the business operator.

A “Street Entrance” shall mean the principal entrance to a business which shall be located in a part of the building facing a public street or public square which is at or within 0.2 metres above or below finished grade.

An “Art Gallery” shall mean a Place where works of art such as paintings, sculpture, pottery, glass and weaving are displayed for public viewing and shall include accessory sales of the works.

A “Drive-Through Use” shall be mean a Use which involves or is designed to encourage a customer to remain in a vehicle while receiving a service, obtaining a product or completing a business transaction. The use shall include vehicular stacking spaces and a serving window, and may include an intercom order box.

6.4.3.1.X.2 Regulations

6.4.3.1.X.2.1 Maximum Total Gross Floor Area for Permitted Uses

3,900 sq. m (42,000 sq. ft.)

6.4.3.1.X.2.2 Maximum Gross Floor Area of an individual Office, Medical Office or Commercial School

465 sq. m (5,000 sq. ft.) per business.

6.4.3.1.X.2.3 Building Entrances

The street entrance to the each business shall be located facing Silvercreek Parkway South or the Market (Public) square.

6.4.3.1.X.2.4 Minimum Off-Street Parking

- Office
1 space per 33 square metres of Gross Floor Area
- Residential
1 space per unit
- All other permitted commercial uses
1 space per 23.2 sq. m (250 sq. ft.) of Gross Floor Area

6.4.3.1.X.2.5 Maximum Front and Exterior Side Yard (Build-to Line)

Despite the provisions of Table 6.4.2:

- Buildings adjacent to Silvercreek Parkway and/or the public square shall be set back a minimum of 0 m (0 ft.) and a maximum of 3 m (10 feet) from Silvercreek Parkway and/or the Market (Public) square.

- b) Buildings developed within 30 metres of the Neighbourhood Park (P.2) Zone east of Silvercreek Parkway shall be set back a minimum of 0 m (0 ft.) and a maximum of 3 m (10 feet) from the limits of that P.2 Zone.
- c) The minimum building setback from the local street shall be 2.0 metres.

6.4.3.1.X.2.6 Minimum Building Height Requirement

Any portion of a building shall have a minimum building height equivalent to two (2) storeys, and in no case less than 7.6 metres to the underside of the main roof deck.

6.4.3.1.X.2.7 Maximum Building Height

Despite the provisions of Table 6.4.2

- 4 storeys

6.4.3.1.X.2.8 Planting Area

Despite Table 6.4.2, Row 17:

- No planting area shall be required.

6.4.3.1.X.2.9 Uses Prohibited in Certain Locations

6.4.3.1.X.2.9.1 Drive-Through Uses shall be prohibited within 30 metres of the limits of the Market (Public) Square.

6.4.3.1.X.2.9.2 A drive through use in the SC.1-** Zone shall also be:

- a) Not located between any building and a public street.
- b) Significantly screened from public view from all public streets.
- c) Safely separated from pedestrian spaces and corridors.

6.4.3.1.X.2.10 Severability Provision

The provisions of this By-law shall continue to apply collectively to the whole of the lands identified on Schedule "A" as SC.1-X (H), despite any future severance, partition or division for any purpose.

4. Section 7.3.5 of By-law (1995)-14864, as amended is hereby further amended by adding a new subsection 7.3.5.X:

7.3.5.X B.5-X (H)
Silvercreek Parkway South
As shown on Defined Area Map Number 15

7.3.5.X.1 Permitted Uses

In accordance with Section 7.4.1 of Zoning By-law (1995) - 14864, with the following exceptions:

- Manufacturing (entirely within a building)
- Warehouse (entirely within a building)

and with the following additional permitted uses:

- Club
- Maximum of one (1) Religious establishment
- Recreation Centre
- Maximum of one (1) Apartment Building

7.3.5.X.2 **Prohibited Uses**

In accordance with Section 7.4.3 of Zoning By-law (1995)-14864 with the following additional prohibited uses:

- Manufacturing (entirely within a building)
- Warehouse (entirely within a building)

7.3.5.X.3 **Regulations**

In accordance with Section 7.4.4 and Table 7.4 with the following exceptions:

7.3.5.X.3.1 **Maximum Front and Exterior Side Yard (Build-to Line)**

- a) buildings adjacent to Silvercreek Parkway shall be set back a minimum of 2 m and a maximum of 6 m from Silvercreek Parkway
- b) buildings adjacent to the local public road located in the area between Silvercreek Parkway and Howitt Creek shall be set back a minimum of 2 m and a maximum of 6 m from that local road allowance
- c) buildings developed within 30 metres of the Neighbourhood Park (P.2) Zone east of Silvercreek Parkway shall be set back a minimum of 2 m and a maximum of 4.5 m from the limits of that P.2 Zone

7.3.5.X.3.2 **Minimum Building Height**

2 storeys

7.3.5.X.3.3 **Minimum Setback from the Railway Property Line**

30 metres

7.3.5.X.3.4 **Additional Regulations for an Apartment Building**

7.3.5.X.3.4.1 **Maximum Number of Permitted Apartment Units**

100 units

7.3.5.X.3.4.2 **Use Restricted to Certain Location**

The Apartment Building shall be located only within 70 m of the adjacent Neighbourhood Park (P.2) Zone east of Silvercreek Parkway.

7.3.5.X.3.4.3 **Other Regulations for the Permitted Apartment Building**

As per the provisions of the R.4A-X (HX) Zone

7.3.5.X.3.5 **Severability Provision**

The provisions of this By-law shall continue to apply collectively to the whole of the lands identified on Schedule "A" as B.5-X (HX), despite any future severance, partition or division for any purpose.

5. Section 5.4.3.1 of By-law (1995)-14864, as amended is hereby further amended by adding a new subsection 5.4.3.1.X:

5.4.3.1.X **R.4A-X (HX)**
Silvercreek Parkway South
As shown on Defined Area Map Number 15

5.4.3.1.X.1 **Permitted Uses**

In accordance with Section 5.4.1.1 of Zoning By-law (1995) - 14864, except that the following use shall not be permitted:

Maisonette

5.4.3.1.X.2 **Regulations**

In accordance with Section 5.4.2 and Table 5.4.2 with the following exceptions

5.4.3.1.X.2.1 **Minimum Density**

175 units/ha (70 units/ac.)

5.4.3.1.X.2.2 **Maximum Building Height**

8 storeys, except within 30 metres of south property line where a maximum height of 4 storeys shall apply.

5.4.3.1.X.2.3 **Minimum Building Height**

3 storeys

5.4.3.1.X.2.4 **Maximum Front and Exterior Side Yard (Build-to Line)**

Despite the provisions of Table 5.4.2:

- a) buildings adjacent to Silvercreek Parkway shall be set back a minimum of 3 m and a maximum of 6 m from Silvercreek Parkway
- b) buildings adjacent to the local public road located in the area between Silvercreek Parkway and Howitt Creek shall be set back a minimum of 2 m and a maximum of 6 m from that local road allowance
- c) buildings developed within 30 metres of the Neighbourhood Park (P.2) Zone east of Silvercreek Parkway shall be set back a minimum of 2 m and a maximum of 4.5 m from the limits of that P.2 Zone.

5.4.3.1.X.2.5 **Minimum Rear Yard**

6 metres

5.4.3.1.X.2.6 **Minimum Setback from the Railway Property Line**

15 metres

5.4.3.1.X.2.7 **Severability Provision**

The provisions of this By-law shall continue to apply collectively to the

Page 8
of By-law Number (2009)-*****

whole of the lands identified on Schedule "A" as R.4-X (HX), despite any future severance, partition or division for any purpose.

6. Section 2.9 of Zoning By-law (1995)-14864, as amended, is hereby further amended by adding a new subsection 2.9.(X):

(x) (HX) Silver Creek Junction

As shown on Defined Area Map Numbers 10 and 15

Purpose:

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

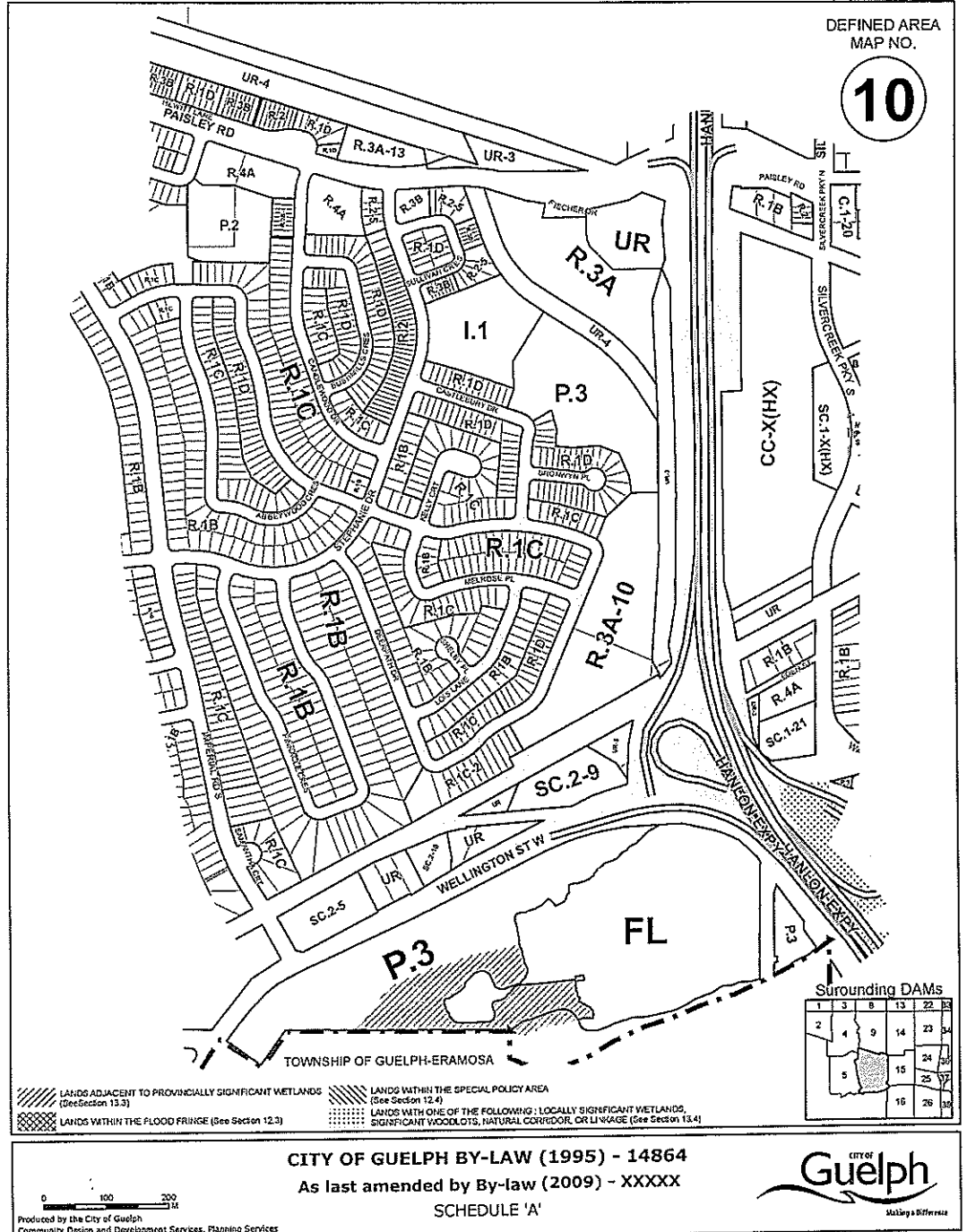
Conditions:

1. completion and final approval of the class environmental assessment processes for a grade-separated crossing at the intersection of Silvercreek Parkway and the C.N.R. rail line at the north edge of the subject lands; and for the re-alignment of Silvercreek Parkway between Paisley Road and Waterloo Avenue and a new public road on the subject lands east of Silvercreek Parkway (right-of-way of 18 m (59 ft.))
 2. registration on title to the subject lands of an executed Site Plan Agreement which addresses, among other items, appropriate infrastructure requirements
 3. the Owner entering into an agreement for a financial contribution to the construction of a stormwater management facility on the portion of the subject lands east of Howitt Creek
 4. conveyance of any lands required for the underpass and road projects noted above, and for the stormwater management facility east of Howitt Creek, and for the proposed parks on the subject lands between Silvercreek Parkway and Howitt Creek, with the exception of the Market (public) square.
 5. the awarding of contracts for the construction of the underpass, road and stormwater management projects noted above
7. Schedule "A" of By-law Number (1995)-14864, as amended, is hereby further amended by deleting Defined Area Maps 10 and 15 and substituting therefore new Defined Area Maps 10 and 15 attached hereto as Schedule "A".
8. This by-law shall come into effect on the day of passing as per an Order from the Ontario Municipal Board (OMB File No. Z070067) dated *****, 2009.

PASSED this day of , 2009.

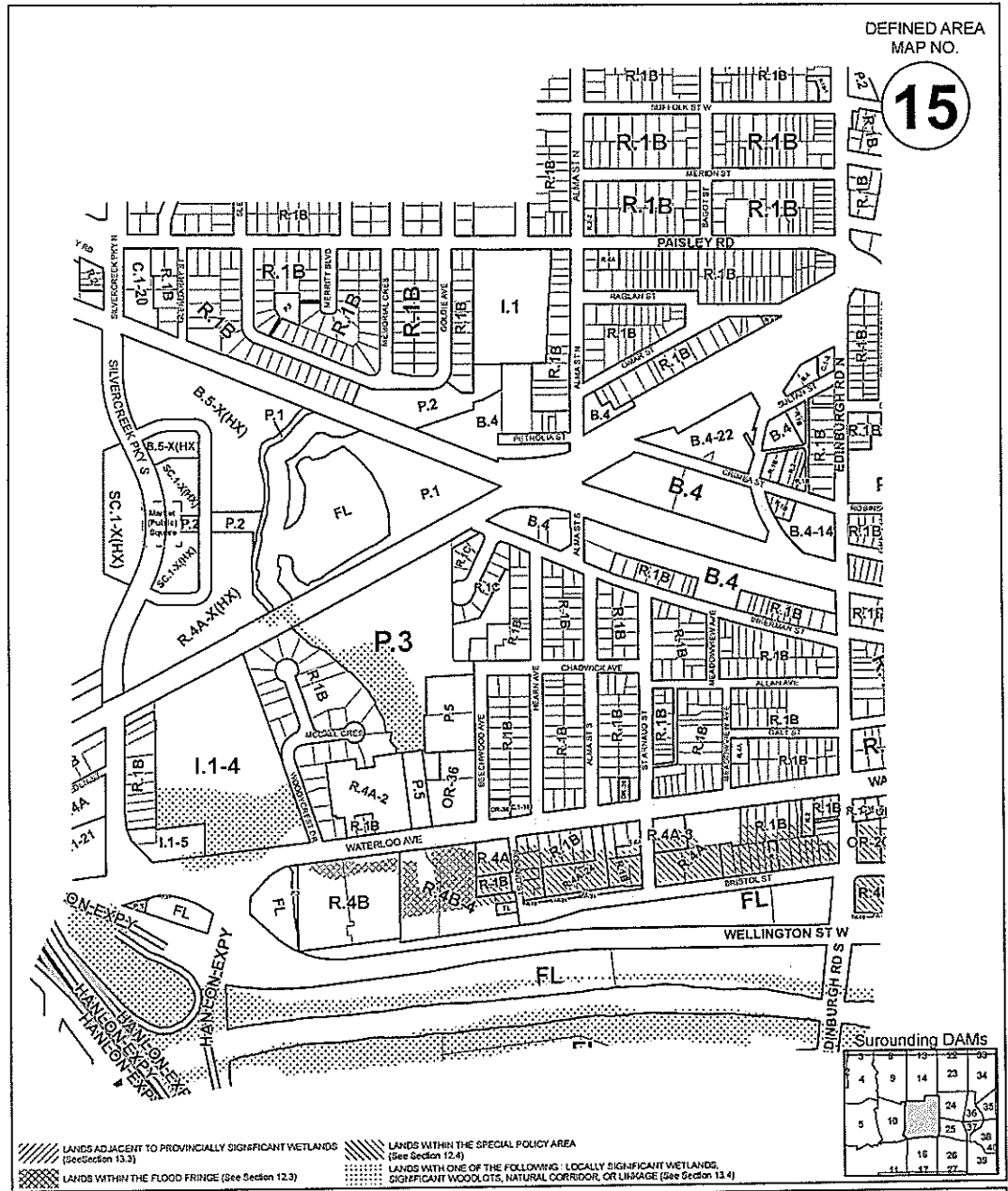
KAREN FARBRIDGE - MAYOR

LOIS A. GILES - CITY CLERK



DEFINED AREA
MAP NO.

15



CITY OF GUELPH BY-LAW (1995) - 14864
As last amended by By-law (2009) - XXXXX
SCHEDULE 'A'



Produced by the City of Guelph
Community Design and Development Services, Planning Services