

# Special City Council Meeting Agenda



**Wednesday, April 18, 2017 – 6:00 p.m.**  
**Council Chambers, Guelph City Hall, 1 Carden Street**

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## **Open Meeting– 6:00 p.m.**

### **Disclosure of Pecuniary Interest and General Nature Thereof**

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**IDE-2018-45      Decision Report 75 Dublin Street North Proposed Official  
Plan Amendment (File: OP1706) Ward 3**

#### **Delegations:**

Catherine Killen  
Telsche Peters  
Rowen Conrad

#### **Correspondence:**

Andrew Nisker

#### **Recommendation:**

That the application by Astrid J. Clos Planning Consultants on behalf of Rykur Holdings, the owner of the of the property municipally known as 75 Dublin Street North, and legally described as All of Lot 1051, Part of Lot 1052, Registered Plan 8, City of Guelph, for approval of an Official Plan Amendment application to permit a maximum height of five (5) storeys where four (4) storeys is permitted on the subject lands, be refused; Council’s reasons for refusal are set out in ATT-2 of Report IDE 2018-45 “Decision Report 75 Dublin Street North Proposed Official Plan Amendment (File: OP1706) Ward 3, dated Wednesday, April 18, 2018.

## **Adjournment**

# Staff Report

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To **City Council**

Service Area Infrastructure, Development and Enterprise Services

Date Wednesday, April 18, 2018

Subject **Decision Report  
75 Dublin Street North  
Proposed Official Plan Amendment  
(File: OP1706)  
Ward 3**

Report Number IDE 2018-45

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## Recommendation

1. That the application by Astrid J. Clos Planning Consultants on behalf of Rykur Holdings, the owner of the of the property municipally known as 75 Dublin Street North, and legally described as All of Lot 1051, Part of Lot 1052, Registered Plan 8, City of Guelph, for approval of an Official Plan Amendment application to permit a maximum height of five (5) storeys where four (4) storeys is permitted on the subject lands, be refused; Council's reasons for refusal are set out in ATT-2 of Report IDE 2018-45 "Decision Report 75 Dublin Street North Proposed Official Plan Amendment (File: OP1706) Ward 3, dated Wednesday, April 18, 2018. .

## Executive Summary

### Purpose of Report

This report provides a staff recommendation to refuse an Official Plan amendment to permit a five (5) storey building where up to four (4) storeys of height is permitted.

### Key Findings

Planning staff recommend refusal of the proposed Official Plan amendment application because the additional height has been determined to be inconsistent with the Provincial Policy Statement and not in conformity with provincial plans and the City of Guelph Official Plan, as detailed in ATT-2 of this report.

### Financial Implications

There are no potential development charges or tax estimates to report because the recommendation is to refuse this application.

# Report

## Overview

An application for an Official Plan Amendment has been received for the site municipally known as 75 Dublin Street North. The applicant has proposed a five storey apartment building and the Official Plan amendment is required because the site is permitted a maximum building height of four storeys. The application was received September 25, 2017 and deemed to be complete on October 25, 2017. A statutory Public Meeting for this proposed Official Plan amendment was held on February 27, 2018. Subsequent to the Public Meeting, the applicant amended their application, asking for additional policy wording that would require a holding provision be added to the existing site specific zoning, to permit five storeys only if the site provided affordable housing. Notice of the additional Official Plan amendment wording was provided in the joint Notice of Revised Application and Decision Meeting that was mailed to interested parties on Monday March 26, 2018. Further details of this proposed amendment are found in ATT-5.

## Background

The site was subject to a City-initiated Official Plan Amendment in 2016 in conjunction with the Downtown Zoning By-law amendment. The City initiated the Downtown Zoning By-law Amendment in order to bring the Zoning By-law into conformity with the Downtown Secondary Plan (ZC1612). In September 2016, Council directed staff to bring forward the portion of the Downtown Zoning By-law Amendment related to 75 Dublin Street North, as well as a City-initiated site-specific Official Plan Amendment, to a November 2016 council meeting for a decision in order to facilitate the timing requirements of the 'Investment in Affordable Housing' Grant. Accordingly, staff initiated a site specific Official Plan Amendment and further examined site specific zoning regulations for the subject property.

On November 28 and 30, 2016 staff brought forward a recommendation to Council on the subject site recommending refusal of the City-initiated Official Plan Amendment to permit a maximum building height of five (5) storeys where a maximum building height of four (4) storeys was permitted. Staff recommended approval of a site specific D.2-9 Zone in advance of the regulations proposed in the Downtown Zoning By-law Amendment. On November 30, 2016, Council refused the proposed Official Plan amendment and approved the site-specific Zoning By-law amendment being recommended by staff but both were subsequently appealed to the Ontario Municipal Board (OMB) where they are awaiting further direction.

On November 12, 2017, an OMB Motion Hearing was held to determine two motions brought forward following appeal of both the Official Plan amendment refusal and Zoning By-law amendment approval by Council. The City brought forward a motion to dismiss the landowner/appellant Rykur Holdings appeal of the Official Plan amendment refusal, given that the Official Plan amendment was City-initiated. The Guelph Old City Residents' Association brought forward a motion that the Council approved site specific zoning for 75 Dublin Street North be repealed in whole by the OMB.

At this time all parties are awaiting a decision from the OMB on these motions to provide greater clarity with respect to this new privately initiated application and the status of the Council approved zoning (the D.2-9 Zone).

### **Location**

The subject property is located at the north-east corner of Cork Street West and Dublin Street North (see ATT-1). The subject property is approximately 0.15 ha in size with frontage along both Dublin Street North and Cork Street West. The subject property was formerly used for recreational purposes (tennis courts).

Surrounding land uses include:

- To the north: Central Public School;
- To the south: Basilica of Our Lady, St. Agnes School, Guelph Civic Museum (formerly convent), the Rectory, the Annex and St. John Bosco school, together known as "Catholic Hill";
- To the east: small office and residential buildings along Cork Street West; and,
- To the west: across Dublin Street North are lands zoned R.1B for single-detached residential uses.

### **Official Plan Land Use Designations and Policies**

The Official Plan land use designation that applies to the subject property is "Mixed Use 2" (See ATT-3). The Mixed Use 2 designation is intended to accommodate a range of small-scale uses within an existing predominantly low rise residential area. Further details of this designation and other related Official Plan policies are included in ATT-3.

### **Zoning Background**

The subject property is currently zoned "I.1" (Institutional) Zone in the City of Guelph's Zoning By-Law (1995)-14865.

On November 30, 2016, Council approved new zoning for 75 Dublin Street North that implemented the Downtown Secondary Plan. The proposed zoning would permit a four-storey building together with maximum average building storey height of 3.2 metres and a maximum geodetic elevation of the entire building of 361m. The zoning also proposed specific front and exterior side yard setbacks of 3m, side yard setback of 4.5m, rear yard setback of 3m to the first two storeys, and required building setbacks facing the street and the rear yard. The site was approved as a D.2-9 zone but was subsequently appealed and is currently before the Ontario Municipal Board (OMB) awaiting a hearing. The complete regulations for the D.2-9 Zone, as approved, are found in the staff recommendation report from November 30, 2016 (Council Report #16-85).

The zoning information provided is for background context only and is not being assessed in this report on the Official Plan amendment application.

### **Description of Proposed Official Plan Amendment**

The applicant is proposing to amend the Official Plan to permit five storeys where a maximum of four storeys is permitted. This amendment application included the addition of a provision for a setback of the 5<sup>th</sup> storey of a minimum of 9 metres from the rear yard and from the street lines of Dublin Street North and Cork Street West.

On March 13, 2018, the applicant provided an additional request to include a requirement in the proposed Official Plan amendment for a Holding provision to be added to the site specific zoning which would have the effect of only allowing a 5<sup>th</sup> storey if the building has an affordable housing component (see revised amendment request in ATT-5).

### **Proposed Development**

The applicant has proposed a five (5) storey apartment building containing 35 apartment units, with 35 parking spaces; 20 of these units are proposed to be affordable. The applicant is proposing that a fifth storey would only be permitted with a 9 metre setback from the rear yard and subject to a Holding provision in the site specific zoning requiring affordable housing.

The applicant's conceptual development plan and proposed building elevations are shown in ATT-4.

### **Staff Recommendation**

Staff have reviewed the revised wording proposed for the Official Plan amendment, the development concept proposed by the owner of the subject property, the technical studies and supporting materials, as well as the input received from the community regarding the development of this property.

Based on the review, staff recommend refusal of the proposed Official Plan Amendment to permit a building height of five storeys for 75 Dublin Street North.

It is Planning staff's opinion that five storeys on this site does not constitute good planning. The applicant's proposals to add site specific policies to provide additional setbacks for the fifth storey and to add wording that would attempt to condition the Official Plan amendment only if there is funding received for affordable housing do not change staff's opinion, regardless of whether or not the development includes an affordable housing component. Furthermore, it is staff's professional planning opinion that this proposed approach is not in keeping with the normal intended application of Section 36 of the Planning Act, with respect to the use of Holding provisions.

The application fails to conform to the City Official Plan in that the Downtown Secondary Plan Schedule B limits height to a maximum of four storeys, a height which was deliberately established in key areas of the downtown to ensure compatibility. Staff have determined that a maximum of four storeys remains appropriate for the site given its unique context. There are significant compatibility concerns in permitting any additional storeys, given the site's high elevation, location on the edge of downtown, transitioning to an adjacent lower density residential neighbourhood, and its position next to a school, which is considered to be a sensitive land use.

For these reasons, Planning staff conclude that this site is not an appropriate location for an increased number of storeys and recommend that the proposed Official Plan Amendment be refused. A summary of recommended reasons for refusal and the detailed planning analysis is found in ATT-2.

## **Financial Implications**

There are no development charges or tax estimates to report because the recommendation is to refuse this application.

## **Consultations**

The Notice of Complete Application was mailed on November 8, 2017 to local boards and agencies, City service areas, property owners within 120 metres, and people that requested notice on the City-initiated amendment in 2016 (OP1603). The Notice of Public Meeting for this application was mailed on January 30, 2018 and advertised in the Guelph Tribune on February 1, 2018. Notice of the application has also been provided by signage on the property. Notice of a Revision to the Application and the Decision Meeting was mailed on March 26, 2018. See ATT-6 for a full consultation summary.

## **Corporate Administrative Plan**

This report supports the following goals and work plans of the Corporate Administrative Plan (2016-2018):

### **Overarching Goals**

Service Excellence

### **Service Area Operational Work Plans**

Our Resources - A solid foundation for a growing city

## **Attachments**

ATT-1      Location Map and 120m Circulation

- ATT-2 Reasons for Refusal Summary and Planning Analysis
- ATT-3 Official Plan Land Use Designations and Policies
- ATT-4 Proposed Development Concept Plan and Elevations
- ATT-5 March 13, 2018 Applicant's Letter Regarding Revisions to the Official Plan Amendment
- ATT-6 Public Consultation Timeline

**Departmental Approval**

Not applicable.

**Report Author**

Katie Nasswetter  
Senior Development Planner

**Approved By**

Chris DeVriendt  
Manager of Development Planning



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**Approved By**

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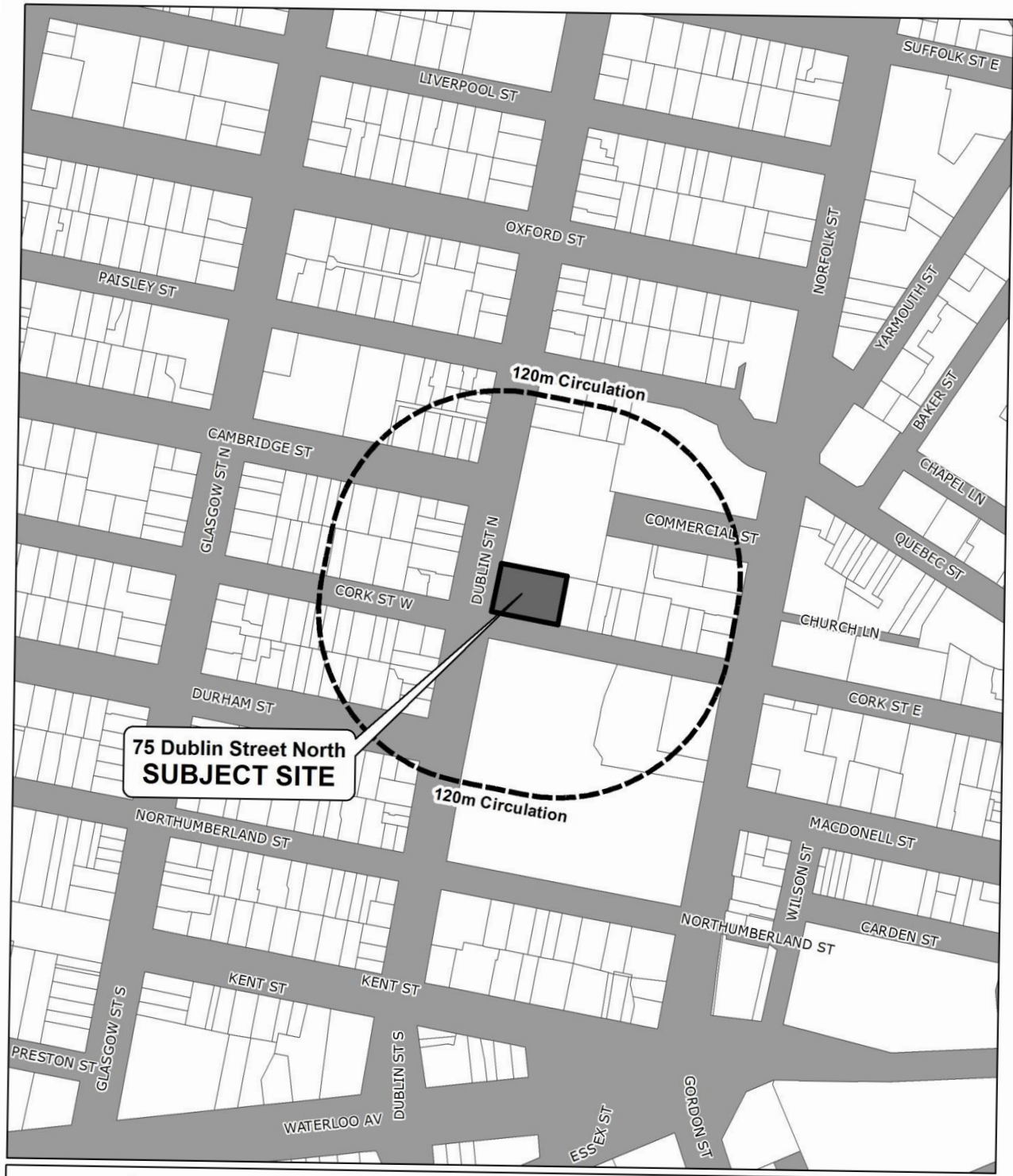


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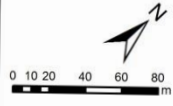
**Recommended By**

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**ATT-1  
Location Map and 120m Circulation**



**75 Dublin Street North  
SUBJECT SITE**



**LOCATION MAP  
75 Dublin Street North  
120m Circulation**



Produced by the City of Guelph  
Planning, Building, Engineering and Environment, Development Planning  
September 2016

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## **ATT-2 Reasons for Refusal Summary and Planning Analysis**

### **Summary of Reasons for Refusal**

Staff has reviewed the development concept proposed by the owner of the subject property, the technical studies and supporting materials, as well as the input received from the community regarding the development of this property.

Based on the review, staff is recommending refusal of the proposed Official Plan Amendment to permit a building height of five storeys for 75 Dublin Street North, for the following reasons:

- The site's location is at the edge of the urban growth centre, where a transition to the adjacent low density residential neighbourhood across Dublin Street North is appropriate;
- The site's location at a topographical high point within the City and concerns identified with its relationship to the adjacent school yard;
- Concerns identified regarding compatibility, especially related to the adjacent school (e.g. shadow impacts); and,
- The property is designated Mixed Use 2 where the predominant character of this area is of low-rise buildings,
- The height proposed is not consistent with the Downtown Secondary Plan policies in the Official Plan, which designates a maximum height of four storeys.

The Downtown Secondary Plan was adopted by Council in 2012 and this document confirmed that a maximum building height of four storeys is appropriate for this site. The staff review continues to support a maximum height of four storeys on the site. This policy in the Official Plan is consistent with Provincial Policy in both the Provincial Policy Statement and the Growth Plan regarding opportunities for compatible infill and intensification.

Planning staff concludes that this site is not an appropriate location for increasing building height permissions and is recommending that the proposed Official Plan Amendment be refused.

## **Planning Analysis**

### **Official Plan Conformity**

The applicant has proposed that five storeys be permitted where four storeys is the maximum permitted height. The applicant also included that a 9 metre stepback from the rear yard and from the Dublin Street North and Cork Street West street fronts be included in the Official Plan amendment. On March 13, 2018, the applicant request a revision to their amendment, proposing that the amendment be conditioned to require a Holding provision be added to the Zoning to require the applicant to receive funding for affordable housing on site before allowing a fifth storey.

In the 2016 review of the City-initiated Official Plan amendment and site specific zoning, Staff stated that a maximum of four storeys remains appropriate on the site. And through the staff review of the proposed zoning in 2016, additional measures to control height were recommended and approved by Council, including a specific maximum elevation (+361m) of the entire building and a limit of storey height to 3.2 metres (see 2016 Planning Report 16-85 for further details).

The applicant submitted a Planning Justification Study and Urban Design Brief with their application which included a shadow study to justify the additional height of five storeys together with 9 metre setbacks to that fifth storey from the rear yard and from both Dublin Street North and Cork Street West. The applicant's Planning Justification further provides information about the use of Holding provisions to require affordable housing before permitting a fifth storey.

Staff have reviewed this information together with the concerns raised at the Statutory Public Meeting by the neighbourhood about the impact of the proposed development together with the City's Official Plan policies including the Downtown Secondary Plan and the criteria for Official Plan amendments.

### **Official Plan Amendment Criteria**

Section 9.4 of the Official Plan indicates that any provision of the Official Plan may be amended pursuant to the requirements of the *Planning Act*. Section 9.4.2 also provides direction for Council on matters that should be considered when an application to amend the Official Plan is being reviewed (see ATT-3). The applicable criteria that need to be considered with respect to the proposed Official Plan Amendment (OPA) are as follows:

- a) the conformity of the proposal to the goals and objectives of the plan;
- b) suitability of the site or area for the proposed use, especially in relation to other sites or areas of the City;

- c) compatibility of the proposed use with adjacent land use designations;
- d) the need for the proposed use, in light of projected population and employment targets;
- e) the market feasibility of the proposed use;
- f) the extent to which the existing areas of the City designated for the proposed use are developed or are available for development;
- g) the impact of the proposed use on sewage, water and solid waste management systems, the transportation system, community facilities and the natural environment; and
- h) the financial implications of the proposed development.

In Planning staff's opinion, the proposed OPA to permit a building height of 5 storeys whereas 4 storeys is currently permitted at 75 Dublin Street North does not meet criteria a) outlined above and, therefore, the OPA should not be approved.

In reviewing the Major Goals of the Official Plan (Section 2.3), the property owner's development concept and the proposed official plan amendment would meet several of the major goals and objectives of the Official Plan. However, based on staff's review of the proposal it has been concluded that Major Goal 2.3.6, to "Ensure that any development in established areas of the City is done in a manner that is sympathetic and compatible with the built form of existing land uses" is not being met by the property owner's concept.

The applicant's planning justification study and revised amendment wording request cite specific Official Plan policies regarding the provision of affordable housing. While staff acknowledge and have given consideration to these policies, the Official Plan must be read in its entirety. Staff are of the opinion that these general affordable housing policies are outweighed by the requirement that infill development be sympathetic and compatible, and that affordable housing projects must still constitute good planning.

#### Downtown Secondary Plan Conformity

In reviewing the Principles and Objectives of the Downtown Section Plan it can also be concluded that the property owner's development concept and the proposed official plan amendment would meet several of the Principles and Objectives of the DSP. However, the DSP also includes the following objective:

"Ensure new development respects the character of downtown's historic fabric and the quality of life in the surrounding neighbourhoods." (11.1.7 g)

The City aims to build a compact, vibrant, and complete community for current and future generations. Complete Community means “a City that meet people’s needs for daily living throughout an entire lifetime by providing convenient access to an appropriate mix of jobs, local services, a full range of housing, and community infrastructure including affordable housing, schools, recreation and open space for their residents. Convenient access to public transportation and options for safe, non-motorized travel is also provided” as defined by the City’s Official Plan.

The subject site is at the edge of the City’s urban growth centre and adjacent to a lower density residential neighbourhood that is designated ‘Low Density Residential’ in the City’s Official Plan (OPA 48). Accordingly, the intent is that this site assists in providing a transition between the urban downtown core of the City and the surrounding low density neighbourhood, balancing the need to meet the density targets set by the Growth Plan for the Greater Golden Horseshoe while not adversely impacting stable residential neighbourhoods.

In addition, when the DSP was being developed, the change made to the historic policy framework regarding height was identified as a major change in the policy regime Downtown.

The DSP set specific direction in regards to height, strategically locating building height permissions in order to provide flexibility for a variety of building typologies within the Downtown, while protecting the heritage character of Downtown, as well as surrounding low density residential neighbourhoods. This resulted in additional height permissions being proposed in areas on the periphery of the historic commercial core and at gateways to Downtown and/or at topographical low points.

Schedule ‘D’ of the DSP sets out the minimum and maximum permitted building heights for the downtown area. The subject property is not at a topographical low point and is on the edge of Downtown, accordingly the minimum height permitted is 2 storeys and the maximum height permitted is 4 storeys.

In addition, the subject site is immediately adjacent to Central Public School. Staff considers a school to be a sensitive land use that requires care and consideration when developing adjacent properties. Recognizing the importance of having schools in all areas of the City to encourage the creation of complete communities, the Downtown Secondary Plan (DSP) identifies that “The City shall encourage the two existing schools Downtown to remain open and maintained. In the event either of them closes or is relocated, the City may seek to acquire all or part of the property for new public uses (Section 11.1.5.3.6)”. Further, Section 11.1.7.5.4 of the DSP recognizes that existing Institutional or Office uses, such as Central Public School, are expected to remain for the life of the DSP (i.e. to 2031). Accordingly, staff is seeking to minimize and mitigate any adverse impacts on the school property from new development.

### Shadow Study

Staff have reviewed the shadow study which is part of the Urban Design Brief submitted by the applicant. The shadow study compares the shadow of the proposed development to the shadow created by the "As-of Right Building" which is based on a four storey institutional building with 4 metre high storeys. Staff note that the zoning approved by Council in 2016 further limited total height on the site to a specific elevation (+361m) and limited the height of individual storeys to 3.2 metres, so the "As-of Right Building" comparisons are of limited usefulness given that these additional height restrictions were already approved by Council in 2016.

Staff note a few differences in the current shadow study to the one completed by staff in 2016 due to differences in the assumptions made in the shadow model including the proposed floor heights, measuring the building versus the zoning envelope and calculating the impact on the schoolyard by combining all school yards where staff analyzed the impact on separate school yard spaces individually. The shadow study does not clearly outline the assumptions made to create the model, but based on a review of the information submitted, it does not appear to be substantially different.

In terms of the review of this Official Plan amendment, given that the zoning would set out all the setbacks and height restrictions for a building, and that the shadow study does not have significantly different results than the shadow study completed by staff in 2016, there is no change to the previous conclusions by Urban Design staff that there are impacts of shadowing from the proposed building's additional height and it is one of the reasons that the additional height should not be supported.

### Holding Provision/Conditional Official Plan Amendment Proposal

The use of a Holding provision was raised at the Statutory Public Meeting as a way of ensuring that a fifth storey would only be permitted if the site had an affordable housing component. The applicant then provided a revised submission on March 13, 2018 requesting that the Official Plan amendment application include additional wording that would require the site specific zoning for the property to use a Holding provision ("H") to ensure that affordable housing be provided in order to permit the fifth storey as per the following (see ATT-6 for further details):

"Further, that the site-specific zoning provisions for the 75 Dublin Street North property shall include the use of Holding "H" provisions to ensure that affordable housing funded by Provincial and/or Federal programs will be provided to the satisfaction of the City in accordance with policy 7.2 b) of this Plan, prior to the Holding Zone being lifted by Council to permit the 5th storey."

Holding provisions, also known as a Holding zone or Holding symbol (H), is a zoning tool permitted in the Planning Act that is placed on a specific zone to prevent its use until the specific requirements of the Hold are met and the Holding provision is removed by Council through an amending By-law. It is most commonly used to ensure that infrastructure or other technical requirements are in place before development occurs.

Holding conditions are only applicable to zoning, there is no way to similarly condition an Official Plan amendment. The City's Official Plan permits the use of the Holding symbol with specific criteria when rezoning land but cannot create additional conditions that would require a Holding zone. The criteria in the City's Official Plan are as follows:

City of Guelph Official Plan Policy Excerpt:

### **10.5 Holding By-law**

1. The City may use the holding symbol (H) or any other appropriate symbol pursuant to the provisions and regulations of the *Planning Act* where the use of land is definitely established but a specific *development* proposal is considered premature or inappropriate for immediate implementation.
2. The City may apply a holding (H) symbol **in conjunction with the implementing Zoning By-law** for any land use designation of this Plan in one or more of the following circumstances:
  - i) where municipal services such as sanitary sewers, stormwater management facilities, water supply, parks, schools, community services and facilities and *community infrastructure* have been determined to have insufficient capacity to serve the proposed *development* until necessary improvements are made;
  - ii) where the submission and acceptance of special studies or support studies as required by this Plan are required prior to *development*;
  - iii) to ensure that *natural heritage features* or *cultural heritage resources* are protected in accordance with the policies of this Plan prior to *development*;
  - iv) to ensure that potential *natural hazards* or *development* constraints are safely addressed in accordance with the policies of this Plan prior to *development*;
  - v) where it is necessary to require the phasing of an overall *development* to ensure logical and orderly land use, to minimize negative impacts or to secure commitments consistent with the policies of this Plan;
  - vi) where *development* is contingent upon other related matters occurring first, such as the consolidation of land ownership to ensure orderly *development* and phasing of the project or to secure funding agreements on necessary *infrastructure* or services; and
  - vii) where environmental remediation or mitigation measures are required.

In relation to the current application, the use of a Holding provision is inappropriate. First, holding provisions under the Planning Act are only permitted to

be used as a way to control when a Zoning By-law is being implemented. The application under review now is only for an Official Plan amendment and Council has already made a decision on the zoning for this site in 2016. That zoning decision was appealed to the Ontario Municipal Board and is currently awaiting a hearing date and the status of the zoning will be determined by the Ontario Municipal Board. The owner could have chosen to apply to the City for a Zoning By-law amendment that included a holding provision but they have not done so.

Furthermore, the criteria for using a holding provision in the Zoning are generally related to timing and prematurity of Zoning to other timed factors, such as infrastructure that is needed or site remediation requirements. In this case, requesting additional height if there is the provision of affordable housing is not similar to any of the criteria listed above in Section 10.5.2 of the Official Plan. In this case, the provision of affordable housing has been brought forward as a community benefit which is not a reason for a Holding provision. Community benefits can be considered under Section 37 of the Planning Act regarding bonusing. However, this site is not identified as appropriate for bonusing by the City's Official Plan and the applicant has not applied for bonusing.

The applicant's letter requesting this revision on March 13, 2018 (see ATT-6) includes examples of where holding provisions are referenced in the City's Official Plan. These examples are not in themselves holding provisions, nor do they condition the Official Plan or the Zoning By-law. Example 1 in the letter merely notes the City's authority to use the holding provisions to ensure that potentially contaminated sites have their site condition appropriately remediated prior to development occurring. This would be an appropriate use of a Holding provision at the time a Zoning By-law amendment is passed. Example 2 notes the outcome of an OMB decision at the Silvercreek Junction site that noted the implementing zoning shall include the Holding provision to address needed infrastructure improvements. Again, this is related to the implementing zoning by-law that was enacted by the OMB and is only in the Official Plan because it was mentioned in the OMB approved policies, but the Official Plan has no role in the holding provision itself. Example 3 is an Official Plan polices that notes a Holding provision may be used on implementing zoning to encourage land use compatibility, related to the Hanlon Creek Business Park and adjacent residential uses, such as to ensure a Noise Study is completed. Again, an appropriate use for the Holding provision but has no bearing on this application. The provision of affordable housing is not the reason for this application, nor is it the reason that staff recommend refusal of this application, rather the additional height proposed is the compatibility concern raised by staff, regardless of whether the site contains affordable housing or not.

Official Plan amendments should not be made 'conditional' in any way and holding provisions are only appropriate in a Zoning context. For all these reasons, staff do

not support the idea of conditional approval of this Official Plan amendment for additional height contingent on the provision of affordable housing.

#### Official Plan Amendment Recommendation Summary

Given the following:

- The site's location is at the edge of the urban growth centre, where a transition to the adjacent low density residential neighbourhood across Dublin Street North is appropriate;
- The site's location at a topographical high point within the City and concerns identified with its relationship to the adjacent school yard;
- Concerns identified regarding compatibility, especially related to the adjacent school (e.g. shadow impacts); and,
- The property is designated Mixed Use 2 where the predominant character of this area is of low-rise buildings;
- The attempted mitigation of the Official Plan amendment impacts by the applicant through the proposal of the Holding provision and setbacks in the Official Plan do not alter staff's recommendation on refusing additional height.

Planning staff concludes that this site is not an appropriate location for increasing building height permissions and are recommending that the proposed Official Plan Amendment be refused.

#### **Provincial Policy Statement and Places to Grow Conformity**

The Downtown Secondary Plan is approved policy in the City's Official Plan that is consistent with the Provincial Policy Statement (PPS) and the Growth Plan for the Greater Golden Horseshoe. It is intended to meet the requirements of the PPS including efficient development and land use patterns that do not cause environmental or public health and safety concerns and promote cost-effective development standards to minimize land consumption and servicing costs [PPS 1.1.1 (a), (b), (c), (d), (g)]. It is also meant to achieve the objectives of the Growth Plan, and more specifically the Growth Plan's requirements for the City's Urban Growth Centre.

The Downtown Secondary Plan identifies many areas of the Downtown or the City's Urban Growth Centre that are appropriate for additional height and density and is



planned to accommodate additional population and employment as required by the Growth Plan.

The City's Downtown Secondary Plan allows for the development of a range of uses on the site, including residential development to a maximum of four storeys. This allows the site to contribute to the goals of the Growth Plan related to promoting intensification and efficient development, while remaining compatible with the surrounding sensitive land uses.

Overall, staff have recommended refusal of the proposed additional storey because it does not conform to the Downtown Secondary Plan, which has been established to be in conformance with the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe.

### **Other Issues Raised**

#### **Potential Land Swap/Greenspace/Park**

Several neighbourhood residents requested that the City attempt to work out a land swap arrangement with the applicant, to enable the development to occur elsewhere so this site could become a park. Residents cited the lack of nearby parkland, the adjacent small school yard and neighbouring Catholic Hill heritage site as reasons they would prefer the site become a park. The applicant also provided the City notice, through a letter dated February 26, 2018, that they would be open to a land swap provided that the land would be "located within the Downtown Secondary Plan area, is zoned to permit a 5 storey apartment building, is not contaminated and is permit ready, that the City would be willing to trade in a timely manner."

The idea of a land swap also came up in the 2016 City initiated amendments for the site. At the time, City staff reviewed and filtered through all City-owned assets. While there are City-owned properties that are zoned residential and are comparable in size to 75 Dublin Street North, none of them would accommodate a the timeline to achieve a building permit to meet the timelines of the 2016 'Investment in Affordable Housing' grant.

Staff reviewed the criteria listed at this time and determined that the City does not have permit-ready land available in the downtown and is not able to entertain a land swap that meets the property owner's criteria. Staff can confirm that since the review in 2016, there are no additional City owned lands available in the downtown, nor do any of the City owned lands downtown have a building permit-ready status.

Staff review of this site is only in the context of the proposed Official Plan amendment to permit five (5) storeys not the potential for a park. The Downtown

Secondary Plan does have a parkland component, as shown in Schedule B, the Public Realm (as shown in ATT-3 of this report). This schedule identifies areas in the Downtown that the City would like to acquire as parkland, such as along the south side of Wellington Street between Gordon Street and Wyndham Street, together with specific policies for acquiring downtown parkland. This site, 75 Dublin Street North, is not one of those identified in the Downtown Secondary Plan.

The 2016 City initiated amendments to the site considered in detail the neighbouring cultural heritage site, known as Catholic Hill. In the 2016 Council approved zoning, a maximum geodetic elevation was included to ensure that any rooftop mechanicals are limited to a maximum height in order to reduce their impact and to help create an appropriate relationship with the former St. Agnes School. The 2016 Staff recommendation report (Report 16-85) further concluded that the proposed development would not have a negative impact on the heritage attributes of the Basilica of Our Lady Immaculate.

### **Affordable Housing**

The applicant has proposed a total of 35 apartment units with 20 of those units being created as affordable housing. This is based on the 2016 'Investment in Affordable Housing' program that is not currently available. Staff cannot predict when future affordable housing programs will come forward or whether they will have the same funding opportunities.

Questions were raised at the Public Meeting regarding how the Investment in Affordable Housing (IAH) program works and how funding is potentially being provided to this project. Essentially the program contributes to the cost of the creation of the unit. In 2016, the program provided up to \$150,000 of capital contribution per unit, with a maximum of \$3,000,000 in total, was available under the IAH Program and corresponding Request for Proposals issued by the County of Wellington. The 75 Dublin Street North project was awarded funding to assist in the development of 20 targeted senior rental one bedroom units. Maximum rents that could be charged for these 20 units is 80% of the prevailing CMHC average rents for Wellington County. To ensure that any affordable rental housing units are made available to low to moderate income households, gross tenant household income targets will be established by the County. Potential residents must provide proof of current annual income via pay stubs, previous year's tax returns, confirmation of pension or disability income etc.

Staff do not know whether the same IAH program will create the same funding strategy in the next few years or if a different approach will be taken regarding how the creation of affordable housing units is supported by other levels of government.

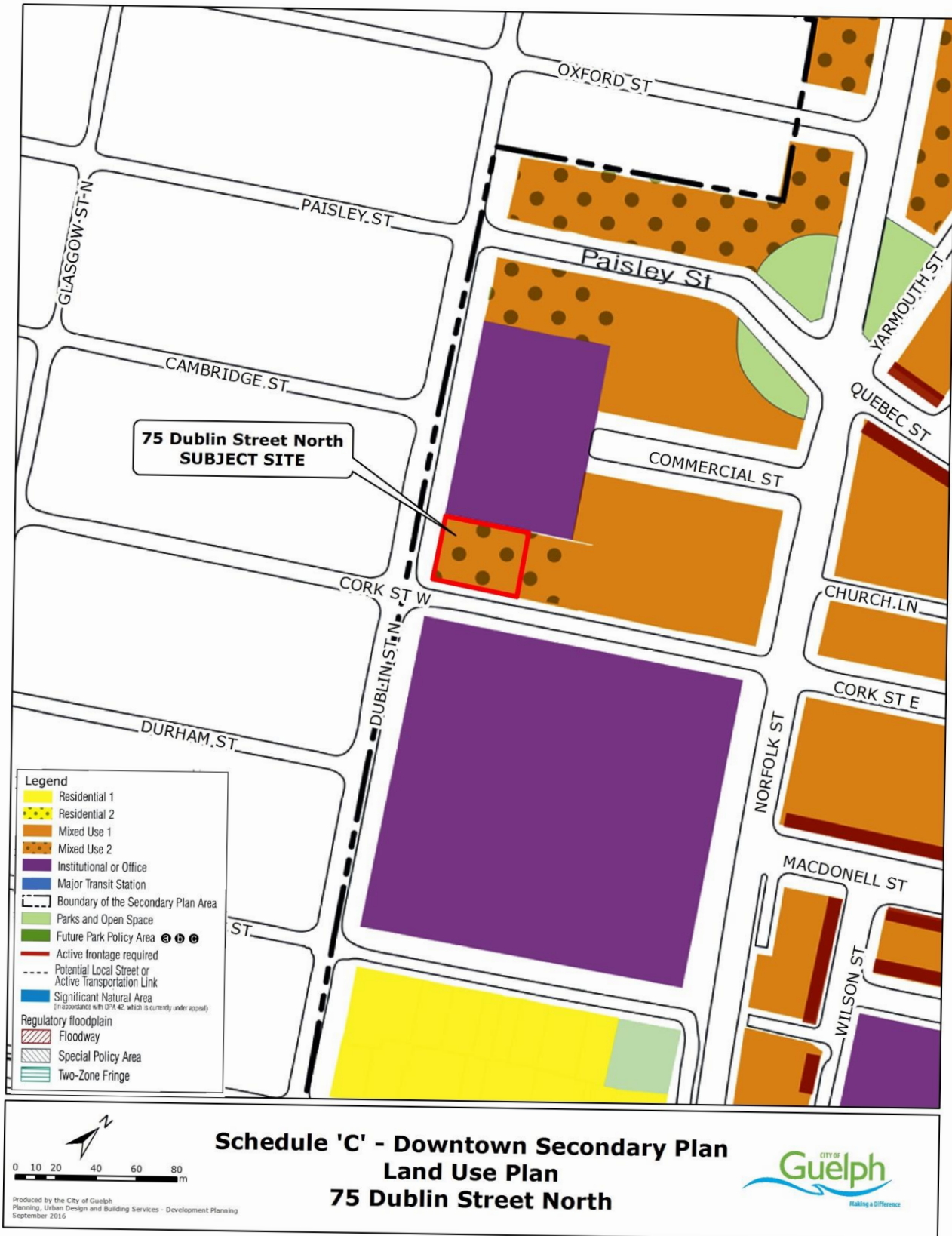
Staff note that by refusing a fifth storey, it does not preclude affordable subsidized units from being built on the site, only the five storey proposal in front of Council today. Furthermore, the application is being refused on grounds that the built form does not constitute good planning, in that it is not compatible with its surroundings, regardless of whether or not it includes an affordable housing component.

### **School Use Projections**

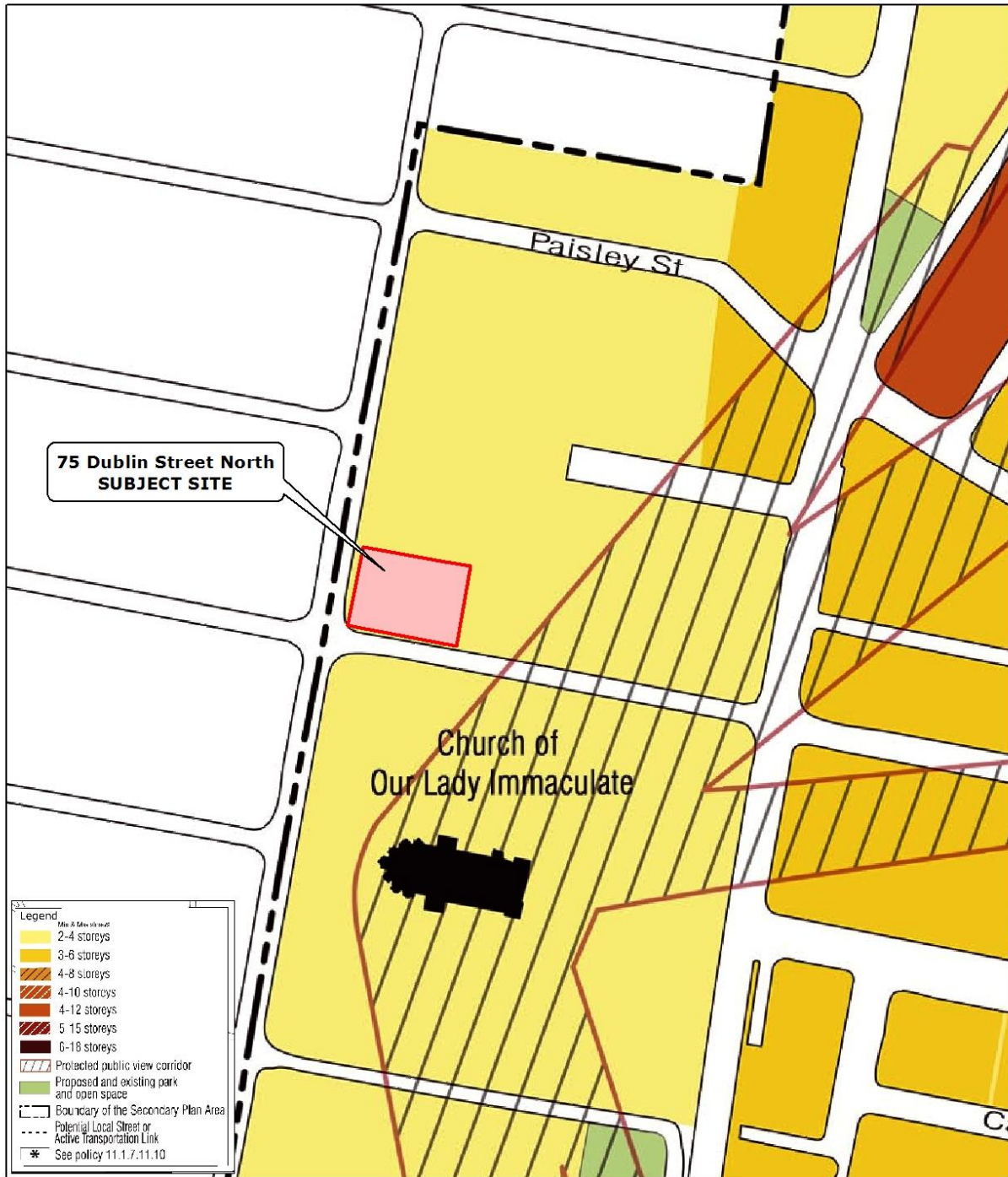
A question was raised at the Statutory Public Meeting about the projected growth of Central Public School, adjacent to the site. The Upper Grand District School Board (UGDSB) released a Background Report in January 2018 that supports the development of the Board's Long Term Accommodation Plan. This report provides 10-year enrolment forecasts for each existing school in the district.

The 10-year forecast shows slight growth in Central Public School's enrolment, increasing from approximately 218 students in October 2017 to 243 students by 2027. This increase correlates to an improved school utilization rate from 80% to 89%.

**ATT-3**  
**Existing Official Plan Land Use Designation and Policies**



**ATT-3 (continued)**  
**Existing Official Plan Land Use Designations and Policies**




**Schedule 'D' - Downtown Secondary Plan**  
**Minimum and Maximum Building Heights**  
**75 Dublin Street North**

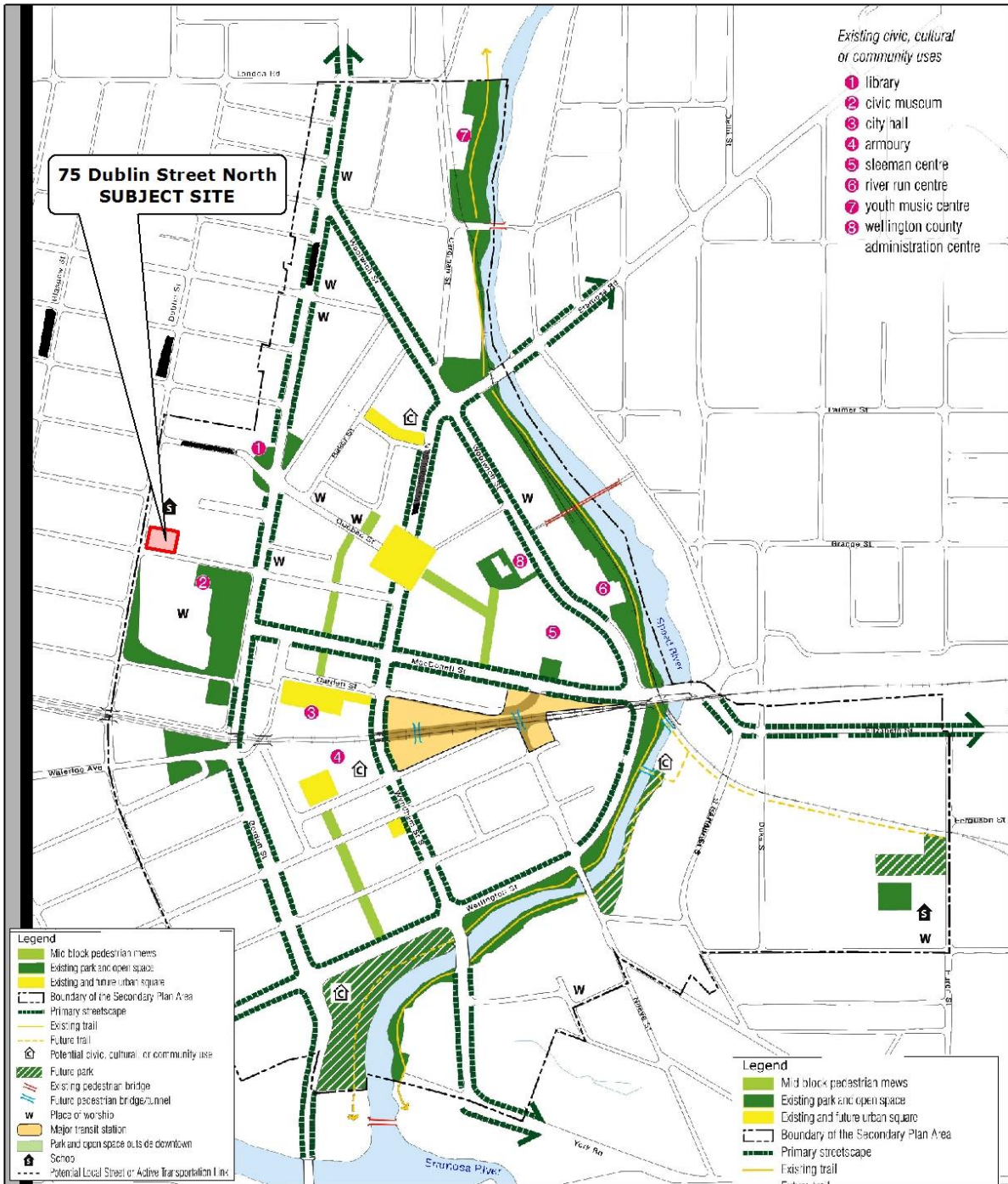




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 Planning, Urban Design and Building Services • Development Planning  
 March 2016



**ATT-3 (continued)**  
**Existing Official Plan Land Use Designations and Policies**



**Schedule 'B' - Downtown Secondary Plan  
Public Realm  
75 Dublin Street North**

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 March 2018

**ATT-3 (continued)**  
**Existing Official Plan Land Use Designations and Policies**

**11.1.7.4 Mixed Use 2 Areas**

11.1.7.4.1

Mixed Use 2 areas, as identified on Schedule C, are those areas of downtown that were historically mostly residential with a mixture of housing styles but have evolved to accommodate a range of uses, many in partially or fully converted houses. Therefore the predominant character of this area is of low-rise buildings that are residential in character, with landscaped front yards, and small-scale, visually unobtrusive commercial signage. In addition, many of the existing buildings and properties in these areas are of Cultural Heritage Value or interest and contribute to Downtown's unique identity. As land uses evolve, the predominant character of Mixed Use 2 areas should be maintained.

11.1.7.4.2

The following uses may be permitted in Mixed Use 2 areas: a) small-scale retail uses and convenience commercial; b) personal service uses; c) detached, semi-detached and duplex dwellings, townhouses and multiple unit apartment buildings; d) live/work uses; e) offices, including medically related uses; f) community services and facilities; g) cultural, educational and institutional uses; h) small-scale hotels; and i) parks, including urban squares.

11.1.7.4.3

The minimum floor space index (FSI) in Mixed Use 2 areas shall generally be 0.6.

11.1.7.4.4

To maintain the general character of Mixed Use 2 areas, development shall adhere to the following:

- a) Development shall be compatible with the character of the surrounding area and respect the character of neighbouring buildings in terms of their scale, materials, articulation, landscaping and relationship to the street.
- b) Building setbacks along the street shall be generally consistent with those of neighbouring buildings within the Mixed Use 2 area. c) Parking and servicing areas shall generally be located at the rear or side of buildings. Parking shall generally not be permitted between the front of a building and the street.

## **ATT-3 (continued)**

### **Existing Official Plan Land Use Designations and Policies**

#### **11.1.7.2 General Built Form and Site Development Policies**

##### **11.1.7.2.1**

Schedule D identifies building height ranges to be permitted within the Downtown Secondary Plan Area. In general, the predominant mid-rise built form of Downtown shall be maintained with taller buildings restricted to strategic locations, including gateways that act as anchors for key streets. Taller buildings in these locations will have minimal direct impacts to existing neighbourhoods and the historic core of Downtown, and they will be outside protected public view corridors. In the height ranges contained on Schedule D, the lower number represents the minimum height in storeys for buildings and the higher number represents the maximum permitted height in storeys. The maximum heights recognize the Church of Our Lady's status as a landmark and signature building; it is the general intent that no building Downtown should be taller than the elevation of the Church. Exemptions from minimum height requirements may be permitted for utility and other buildings accessory to the main use on a site.

##### **11.1.7.2.2**

Notwithstanding Schedule D, the Zoning By-law may establish maximum building heights lower than those shown in order to maintain the protected long views to the Church of Our Lady, as generally identified in Schedule D. The Zoning By-law shall more precisely define the protected views and shall be amended, where appropriate, to reflect the location and scope of the views identified in Schedule D.

##### **11.1.7.2.3**

The following additional built form policies shall apply to all areas of Downtown:

- a) Generally, buildings shall be oriented towards and have their main entrance on a street or open space.
- b) Long buildings, generally those over 40 metres in length, shall break up the visual impact of their mass with evenly spaced vertical recesses or other architectural articulation and/or changes in material.
- c) Mechanical penthouses and elevator cores shall be screened and integrated into the design of buildings.
- d) Generally balconies shall be recessed and/or integrated into the design of the building facade. Exposed concrete balconies generally shall not be permitted.
- e) Residential pick-up and drop-off areas and lay-bys should be located on Secondary or Local Streets and/or Laneways, and not on Primary Streets.
- f) Front patios for ground-floor residential units, where appropriate, should be raised to provide for privacy and a transition between the public and private realms.



**ATT-3 (continued)**  
**Existing Official Plan Land Use Designations and Policies**

- g) All buildings downtown should be finished with high quality, enduring materials, such as stone, brick and glass. Glass should be transparent or tinted with a neutral colour. Materials that do not age well, including stucco, vinyl, exterior insulation finishing system (EIFS) and highly reflective glass, shall be strongly discouraged and may be limited through the implementation documents and by-laws.
- h) The massing and articulation of buildings taller than six storeys shall moderate their perceived mass and shadow impacts, provide appropriate transitions to areas with lower permitted heights, and contribute to a varied skyline in which the Church of Our Lady is most prominent. Generally, the maximum floorplate of any floor above the sixth storey, where permitted, shall be 1,200 square metres. Furthermore, the floorplates of floors above the eighth storey, where permitted, generally shall be a maximum of 1000 square metres and should not exceed a length to width ratio of 1.5:1.

11.1.7.2.4

The following general policies respecting parking, loading and servicing shall apply to all areas of downtown:

- a) Vehicular entrances to parking and servicing areas generally be on Local Streets, Secondary Streets or Laneways and should be consolidated wherever possible to maximize and accentuate building frontages and front yards and minimize the number of curb cuts. Shared driveways between two properties shall be encouraged.
- b) Loading and service areas generally shall be located in the interior of a development block, at the rear of building, where possible. Enclosed loading and servicing areas shall be encouraged. Where loading and servicing is visible at the rear or side of a building, it shall be screened.
- c) Parking for apartment dwellings, including visitor parking, generally shall be located in underground or above-ground structures or surface parking lots at the rear of the building, unless other arrangements for off-site parking have been made to the City's satisfaction.
- d) Requirements for on-site parking for institutional, office and retail uses may be waived or reduced, subject to the Downtown Parking Strategy. Where parking for such uses is provided on site, it shall be located in underground or above-ground structures or surface parking lots at the rear of the building. However, new office or institutional buildings, with or without other uses on the ground floor, generally shall include at least one level of underground parking.
- e) Generally no parking shall be permitted between the front of a building and the street to help create pedestrian-oriented streetscapes.

**ATT-3 (continued)**  
**Existing Official Plan Land Use Designations and Policies**

11.1.7.2.5

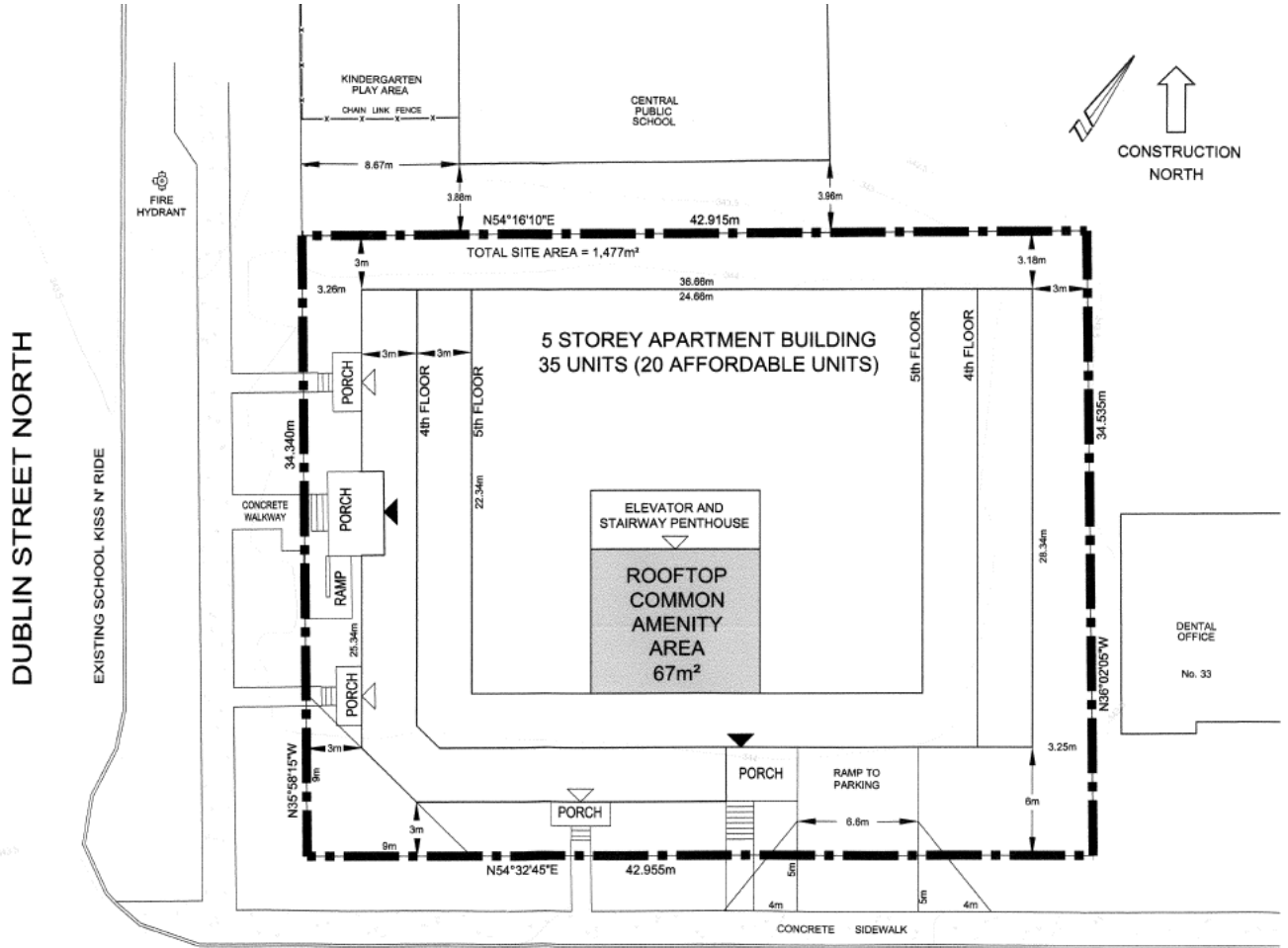
The following policies shall apply to above-grade parking structures:

- a) Parking structures should generally be accessed by motor vehicles from a Local Street, Secondary Street or Laneway and should be located in the middle of a block where possible, behind other uses fronting the street.
- b) Parking structures on a street shall generally contain active uses on the ground floor subject to technical considerations and the entire façade shall be designed to appear as fenestrated buildings, with a regular articulation of openings and materials that are consistent in type and quality with those of surrounding buildings.
- c) Vehicular entrances to above-grade or underground parking structures on public streets shall be integrated into the design of the building.
- d) Pedestrian entrances to parking structures shall be clearly identified and well lit.

11.1.7.2.6

The use of the maximum Floor Space Index (FSI) to justify extra height, the use of the maximum height to justify extra density, or use of either of those regulations to deviate from the other built form policies of this plan will be deemed to meet neither the intent nor spirit of this plan.

# ATT-4 Proposed Development Concept Plan and Elevations



## Dublin Street Elevation:



## Cork Street Elevation:



# Comparison of Council Approved Zoning (2016) and the Applicant's Proposed Building

COMPARISON OF NORTH ELEVATIONS



**ATT-5**  
**March 13, 2018 Applicant's Letter Regarding Revisions to the Official Plan Amendment**



March 13, 2018

Project No. 1227

Guelph City Hall  
1 Carden Street  
Guelph, Ontario  
N1H 3A1

Attention: Katie Nasswetter, MCIP, RPP, Senior Development Planner

**Re: Official Plan Amendment (OP1706)**  
**Rykur Holdings Inc. - 75 Dublin Street North, Guelph**

In response to input received at the Public Meeting held on February 28, 2018 related to the owner-initiated Official Plan Amendment, Rykur Holdings Inc. is requesting that the additional policy shown on **bold** text below be added to this Official Plan Amendment request.

*"Notwithstanding Schedule D: Downtown Secondary Plan Minimum & Maximum Building Heights the Maximum Building Height permitted for the 75 Dublin Street North property shall be 5 storeys. The 5<sup>th</sup> storey shall be setback a minimum of 9 metres from the rear yard and from the street lines of Dublin Street North and Cork Street West.*

***"Further, that the site-specific zoning provisions for the 75 Dublin Street North property shall include the use of Holding "H" provisions to ensure that affordable housing funded by Provincial and/or Federal programs will be provided to the satisfaction of the City in accordance with policy 7.2 b) of this Plan, prior to the Holding Zone being lifted by Council to permit the 5th storey."***

For your reference I have included policy 7.2 b) from the Guelph Official Plan below;

*"7.2 Affordable Housing*

*The City recognizes the importance of housing, including affordable housing, in meeting the needs of the City's existing and future residents.*

*Objectives*

- b) ***To actively participate in, encourage and promote affordable housing opportunities funded by Provincial and/or Federal programs in conjunction with the Consolidated Municipal Service Manager (Service Manager) to ensure a supply of new affordable housing within the City."***

There are existing examples where Holding Zone provisions have been referenced in the Guelph Official Plan which are outlined below;

Example 1

"4.4.4.6 The City **may** use the **holding** provisions of this Plan to ensure that satisfactory verification of suitable environmental site condition is received as per policy 4.4.4.5.i."



Example 2**7.18.4.3 Infrastructure Requirements Silver Creek Junction**

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 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 file to the subject lands, prior to the redevelopment of the lands."

Example 3

"7.7.7.1 e) Impose a **Holding Zone** to ensure that conditions encouraging land use compatibility are implemented."

This Holding Zone proposal is outlined further in my Planning Report dated September 21, 2017 which was submitted to the City in support of the owner-initiated Official Plan Amendment.

**What is new in this application?**

Council asked what is new with respect to this Official Plan Amendment application. I would like to note the following:

- This is a new application under the Planning Act, advanced by the owner, rather than by or with City. I am advised by legal counsel that the City has an obligation to consider it in accordance with the requirements of the Act.
- A new Shadow Study was prepared by James Fryell Architect and submitted in support of this owner initiated OPA application. This new Shadow Study was prepared based on the shadow review criteria established in the City of Guelph Decision Report Number 16-05.
- This owner initiated Official Plan Amendment requires the use of a Holding Zone to ensure that the partial 5<sup>th</sup> storey of the building is only permitted if affordable housing funded by Provincial and/or Federal programs is provided, to the satisfaction of the City.

**What is the definition of affordable housing?**

Council also asked what the definition of affordable housing is.

**Provincial Policy Statement**

"Affordable means

- b) *in the case of rental housing, the least expensive of:*
1. *a unit for which the rent does not exceed 30 percent of gross annual household income for low and moderate income households, or*
  2. *a unit for which the rent is at or below the average market rent of a unit in the regional market area."*

**Guelph Official Plan**

"Affordable Housing means:

- b) *in the case of rental housing, a unit for which the rent is at or below the average market rent of a unit in the City of Guelph."*

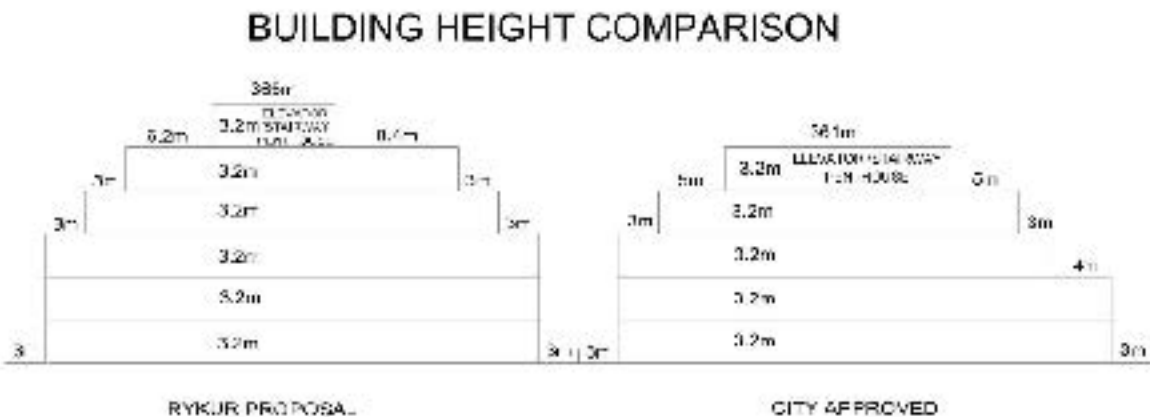
**City of Guelph Decision Report Number 16-85 dated November 28, 2016**

"The 75 Dublin Street North project was awarded funding to assist in the development of 20 targeted senior rental one bedroom units. Maximum rents that can be charged for these units is 80% of the prevailing CMHC average rents for Wellington County. For 2015 that rent would be \$708.00 per month for a one-bedroom unit. To ensure that any affordable rental housing units are made available to low to moderate income households, gross tenant household income targets will be established by the County (at \$708 monthly rent, the expected target income would be \$34,000). Potential residents must provide proof of current annual income via pay stubs, previous years tax returns, confirmation of pension or disability income etc." (page 12)

The previous Investment in Affordable Housing (IAH) funding allocated to Rykur Holdings Inc. for the subject property has now been reallocated. Rykur Holdings Inc. would like to have the approvals in place for a shovel ready affordable housing project to be ready for future Provincial and/or Federal affordable funding programs.

**Building Height Comparison**

Council requested a diagram comparison of the Rykur Holdings Inc. proposed zoning vs. the staff recommended and Council approved zoning for 75 Dublin Street North. Please find this comparison diagram provided below:



Thank you for the opportunity to revise this application and to respond to input received at the February 28, 2018 Public Meeting for application OP1706.

Yours truly,

Astrid Clos, MCIP, RPP

cc: Tom Lammer, Rykur Holdings Inc.  
 Scott Snider, Turksra Mazza Associates

(1227.Rykur Initiated OPA letter.doc)



**ATT-6**  
**Public Notification Summary**

September 25, 2017	Application for Official Plan Amendment submitted to the City
October 25, 2017	Application deemed complete by Planning staff
November 8, 2017	Notice of Complete Application mailed to prescribed agencies, surrounding property owners within 120 metres and interested parties requesting to remain informed
January 30, 2018	Notice of Public Meeting mailed to prescribed agencies, surrounding property owners within 120 metres and interested parties requesting to remain informed
February 1, 2018	Notice of Public Meeting advertised in Guelph Tribune
February 27, 2018	Statutory Public Meeting
March 26, 2018	Notice of Decision Meeting mailed to interested parties that signed-in or commented at the Public Meeting or requested notice
April 18, 2018	City Council meeting to consider staff recommendation

Dear Mayor Guthrie and City Counsellors,

I hope you are all well. I moved with my family from Toronto to Guelph almost a year ago. I live near Exhibition Park and I have three kids that go to Central Public School in JK, Grade 2 and Grade 3. I am writing to voice my concerns about the proposed development at 75 Dublin St. The issues surrounding this proposed building were new to me, however, I have tried to learn about them and I attended the last counsel meeting on February 27th with one of my kids. There are many things in Guelph that have made me pleasantly surprised and reassured that we made the right decision for our family. The consideration for this development certainly is not one of them.

To me the issue is simple. A developer wants to make a profit by masquerading this project as an altruistic endeavour to increase affordable housing in the downtown core. As you know, and I have learned, this of course is not the case. The definition for affordable housing does not ensure or enable people with lower socio economic means to live in this building. Your refusal to allow this project will not appear to anyone in Guelph to be a refusal to expand affordable housing in the core, quite the contrary. The optics will be that the City has chosen to defend the kids and families in perpetuity at the smallest public with the worst play ground and no green space. This decision will have an effect on thousands of kids going forward for decades. And for what? Two dozen units? Some of which are offered at slightly less than market value?

I understand that the developer purchased this land, it has value to him and of course he should be made whole at fair market value in this process. However, there are creative and reasonable solutions on the table that address this while protecting the kids at the school and enriching the overall community experience. 75 Dublin St. should a park. This should be accomplished through the proposed land swap or alternative measures to buy back the land privately by the community.

I will not address all the issues I have with this project in this email but there should be no higher priority than ensuring our children have a safe environment that is geared as much as possible to them getting the most out of school. The facts are clear - this building will have a negative impact of learning at Central and it will also make getting to and from Central more dangerous for the kids.

I was shocked at the last counsel meeting where the developer invited the Counsel to reason that the building site, and in particular the shadows of its permanent eclipse, would protect the kids from the risks of skin cancer through less exposure to the sun. To me, this submission (and others) highlighted how little they care for school, that their commitment to affordable housing is lip service at best and that they are blindly driven by profit. I have no problem with businesses seeking profitable ventures in fact I encourage it, but only if it is done in a manner that does not have a significant and long term negative effect on a vulnerable segment of our community.

I thought I'd left behind in Toronto a culture, where large companies get their way in the face of what is clearly the right thing to do.

Thank you for your time and I hope you had a fantastic long weekend.

Andrew Nisker