

January 4, 2023

Submissions to Ministry of Municipal Affairs and Housing

Regulatory Proposal

City of Guelph Official Plan Amendment No. 80

ERO No. 019-5981

Ministry Ref. No. 23-OP-221935

Comment Period: December 5, 2022 - January 4, 2023 (30 days)

A. Introduction

Aird & Berlis LLP represents Armtec Inc. (“**Armtec**”) and WGI Westman Group Inc. Armtec is the owner of lands municipally known as 41 and 44 George Street (the “**Site**”) in the City of Guelph (the “**City**”). An aerial image showing the Site is provided in **Attachment 1**.

On July 11, 2022, following a municipal comprehensive review pursuant to sections 17 and 26 of the *Planning Act*, R.S.O. 1990, c. P.13, Guelph City Council passed Official Plan Amendment No. 80 (“**OPA 80**”), through By-law (2022)-20731, which amended the City’s Official Plan to achieve conformity with *A Place to Grow: The Growth Plan for the Greater Golden Horseshoe* (the “**Growth Plan**”) and consistency with the Provincial Policy Statement (2020) (the “**PPS**”). Significantly, just prior to the adoption of OPA 80, City Council passed a last-minute motion to down designate the Site from *High Density Residential* to *Medium Density Residential*, without notice to our client, against City Planning staff’s recommendation -- which recommended that the Site’s *High Density Residential* designation be maintained -- and without any planning justification.

On December 5, 2022, the Ministry of Municipal Affairs and Housing posted a Proposal with respect to OPA 80 (ERO No. 019-5981 and Ministry Ref. No. 23-OP-221935) and is seeking comments from the public with respect to the Proposal on or before January 4, 2023. On behalf of our client, we are filing the following submissions with respect to OPA 80 as it relates to the Site for the Minister's consideration.

We urge the Minister to exercise his authority to amend the Site's Official Plan designation from *Medium Density Residential* to *High Density Residential* in accordance with **Attachment 2**. Such re-designation would reinstate the Site's original designation prior to the adoption of OPA 80 and be consistent with the recommendation of City of Guelph Planning staff to maintain the Site's *High Density Residential* designation, identifying our client's brownfield Site as a prime candidate for intensification. We note, significantly, City Council's motion to down designate the Site is devoid of any planning rationale. A down designation would lower the permitted density on the Site from 100-150 units per hectare to 35-100 units per hectare and the permitted height from 3-10 storeys to 2-6 storeys.

Reinstatement of the Site's original *High Density Residential* designation would also be consistent with the PPS, the Growth Plan, the directions of the Ontario Housing Affordability Task Force – in particular, the intensification and redevelopment of a brownfield site within a delineated built-up area. To the contrary, a down designation of the Site would work against this government's recently announced goal of building 1.5 million homes over the next 10 years to combat the housing supply crisis.

B. Site and its Dual Designation

The Site is generally located at the terminus of George and Earl Streets on both sides of the Guelph Junction Railway. To the east of the Site is the Speed River and lands designated natural heritage. An aerial image showing the Site is provided in Attachment 1.

The lands are considered a brownfield site due to historic heavy industrial use. Although the Site is currently operating as an industrial operation and offices, it has long been the desire of our client and the City to see this area transition from heavy industrial to residential use in accordance with the in-force Guelph Official Plan.

Prior to the adoption of OPA 80, the Site was dual-designated: the portion east of the Guelph Junction Railway was designated *High Density Residential* while the portion west of the Guelph Junction Railway was designated *Medium Density Residential*.

The Official Plan, as amended by OPA 80, permits lands designated *High Density Residential* with an as-of-right height of three to 10 storeys and density of 100 to 150 units per hectare, and lands designated *Medium Density Residential* with an as-of-right height of two to six storeys and net density range of 35 to 100 units per hectare.

C. Procedural History

City's Municipal Comprehensive Review and the Recommended OPA 80

As noted above, Guelph undertook a municipal comprehensive review pursuant to sections 17 and 26 of the *Planning Act* and initiated an official plan amendment, OPA 80, to bring the current Official Plan into conformity with the Growth Plan.

In a staff report dated July 11, 2022, entitled *Decision Report: Shaping Guelph Official Plan Amendment 80*, Guelph Planning staff recommended that the Site maintain its dual designation.

In particular, City staff noted the following:

The Armtec property was reviewed and considered through the 2006 Growth Plan conformity work and identified at that time through the City's approved growth management strategy and residential intensification analysis **as a prime candidate for intensification. High density residential was recommended as the appropriate land use designation with medium density residential being placed on adjacent sites.** Council approved this designation, along with

designation changes for all other properties identified in the Council approved growth management strategy, through OPA 48 which was adopted by Council in 2012, approved by the Minister in 2013 and approved by the Ontario Municipal Board in 2017.

Staff continue to recommend the existing land use designation of this property. The high density residential designation is appropriate; this site is a brownfield and the designation will help to realize remediation and redevelopment; future redevelopment is subject to zoning regulations for setbacks and step backs; the rail line and river constrain development; and the City's urban design policies, guidelines and manuals apply to this site to ensure that redevelopment is appropriate and compatible. [emphasis added]

The version of OPA 80 which was provided to the public for review in advance of the open house, statutory public meeting and Council's consideration of OPA 80 maintained that dual designation, consistent with the Planning staff recommendation.

Councillor's Motion to Down-Designate the Site and the Adopted OPA 80

On July 11, 2022, the proposed OPA 80 was considered by City Council at a Special Meeting. At that meeting – and without notice to our client – City Council passed a motion to 'down-designate' the eastern portion of the Site from *High Density Residential* to *Medium Density Residential*, contrary to the recommendations of City staff. As this was done without notice, and following the public deputation portion of the meeting, our client was unable to make any deputation to Council with respect to the motion to 'down-designate' the Site.

The motion, which our client disputes, reads in the minutes of the Special Meeting as follows:

Second Amendment

Moved By Councillor Goller

Seconded By Councillor Gordon

That the Official Plan Schedule 2: Land Use Plan for the property located at 41-45 George Street be changed to Medium Density Residential from High Density Residential.

Voting in Favour: (8): Councillor Allt, Councillor Billings, Councillor Caron, Councillor Downer, Councillor Goller, Councillor Gordon, Councillor Hofland, and Councillor Salisbury

Voting Against: (5): Mayor Guthrie, Councillor Bell, Councillor Gibson, Councillor MacKinnon, and Councillor O'Rourke

Carried (8 to 5)

Accordingly, the City-adopted version of OPA 80, which is currently before the Minister, designates the entirety of the Site as *Medium Density Residential* as described in Item 114, Details of the Amendment, on page 139 of the adopted OPA 80. No rationale was provided in support of the Motion.

Our office was retained immediately after the July 11, 2022 Guelph City Council meeting. On July 13, 2022, we filed a correspondence on behalf of our client noting our objection to the down-designation of the Site. A copy of our correspondence is provided in **Attachment 3**. On July 21, 2022, we received the City's notice of adoption of OPA 80.

D. Procedural Fairness Concerns with the Motion to Down-Designate

Our client has serious concerns with the lack of notice and procedural unfairness regarding the motion which down-designated the eastern portion of the Site.

In our view, the material change to the Site's designation without any notice to our client is highly problematic. As OPA 80 was approved pursuant to sections 17 and 26 of the *Planning Act*, Council's decision is not subject to an appeal by the public. As such, in our view it was incumbent upon the City to provide adequate notice of the proposed change to the designation of the Site and to afford our client the opportunity to make submissions and for those submissions to be considered. That opportunity was not afforded to Armtec.

E. Request to Minister to Reinstate the High Density Residential Designation

We respectfully request that the Minister exercise his authority pursuant to the *Planning Act* and reinstate the land use designations of the Site in accordance with the recommendation of City of Guelph Planning staff.

i. Down-Designation Unsupported by Planning Justification

In addition to the procedural fairness concerns noted above, the decision to ‘down-designate’ was neither supported by City Planning staff nor any planning rationale proffered at the Special Meeting of Council.

We concur with the Planning staff recommendation that *High Density Residential* is the appropriate designation for the eastern portion of the Site. As the Decision Report noted, the question of down-designating the Site was expressly considered by City staff but they retained their opinion that the existing land use designations of the Site, including the *High Density Residential* designation, are appropriate and will help to realize remediation and redevelopment of the brownfield Site.

It is also the professional planning opinion of our client’s consultant, Mr. Hugh Handy of GSP Group, that the *High Density Residential* designation is appropriate and represents good planning. Given the complexity of the Site’s surrounding context, including adjacency to the Guelph Junction Railway, the Speed River and associated natural heritage area, and an established neighbourhood, Mr. Handy opined in a correspondence to City Council dated June 20, 2022 that the existing *High Density Residential* and *Medium Density Residential* designations on the Site will provide the appropriate policy framework for the full and timely redevelopment of the Site. A copy of Mr. Handy’s correspondence is provided in **Attachment 4**.

ii. Down-Designation Contrary to Provincial Policies and Mandates

Moreover, Council's decision to 'down-designate' the Site is contrary to the PPS, Growth Plan, and the directions of the Ontario Housing Affordability Task Force.

The down designation of the Site is contrary to the PPS policies that encourage intensification and redevelopment within delineated built-up areas. In particular, City Planning staff has identified our client's Site as "a prime candidate for intensification" consistent with policy 1.1.3.3 of the PPS – it is a brownfield site suitable for redevelopment with available existing and planned infrastructure required to accommodate projected needs. As noted in the report to Council, Planning staff concluded that the "high density residential designation is appropriate" for this Site. While City Council is not required to follow staff's recommendation, a decision of Council that affects a planning matter must be consistent with the PPS. In our view, by not maintaining the *High Density Residential* designation on this Site, Council's decision is inconsistent with the PPS.

Furthermore, the Growth Plan requires that a minimum of 50 per cent of all residential development occurring annually within the City of Guelph be within the delineated built-up area (section 2.2.2.1(a)). OPA 80 only proposes a minimum of 46 per cent of all residential development occurring annually be within the delineated built up area, contrary to the Growth Plan (p. 22 of OPA 80).

Finally, the down designation of the Site works against the provincial goal of building 1.5 million homes over the next 10 years in accordance with the Ontario Housing Affordability Task Force Report (February 2022), which addresses how this government will tackle the housing crisis.

iii. Other Site-Specific Considerations

As noted above, the Site's current industrial and office uses are adequately serviced by the municipal system and no servicing constraints have been identified on this Site. The Site is also

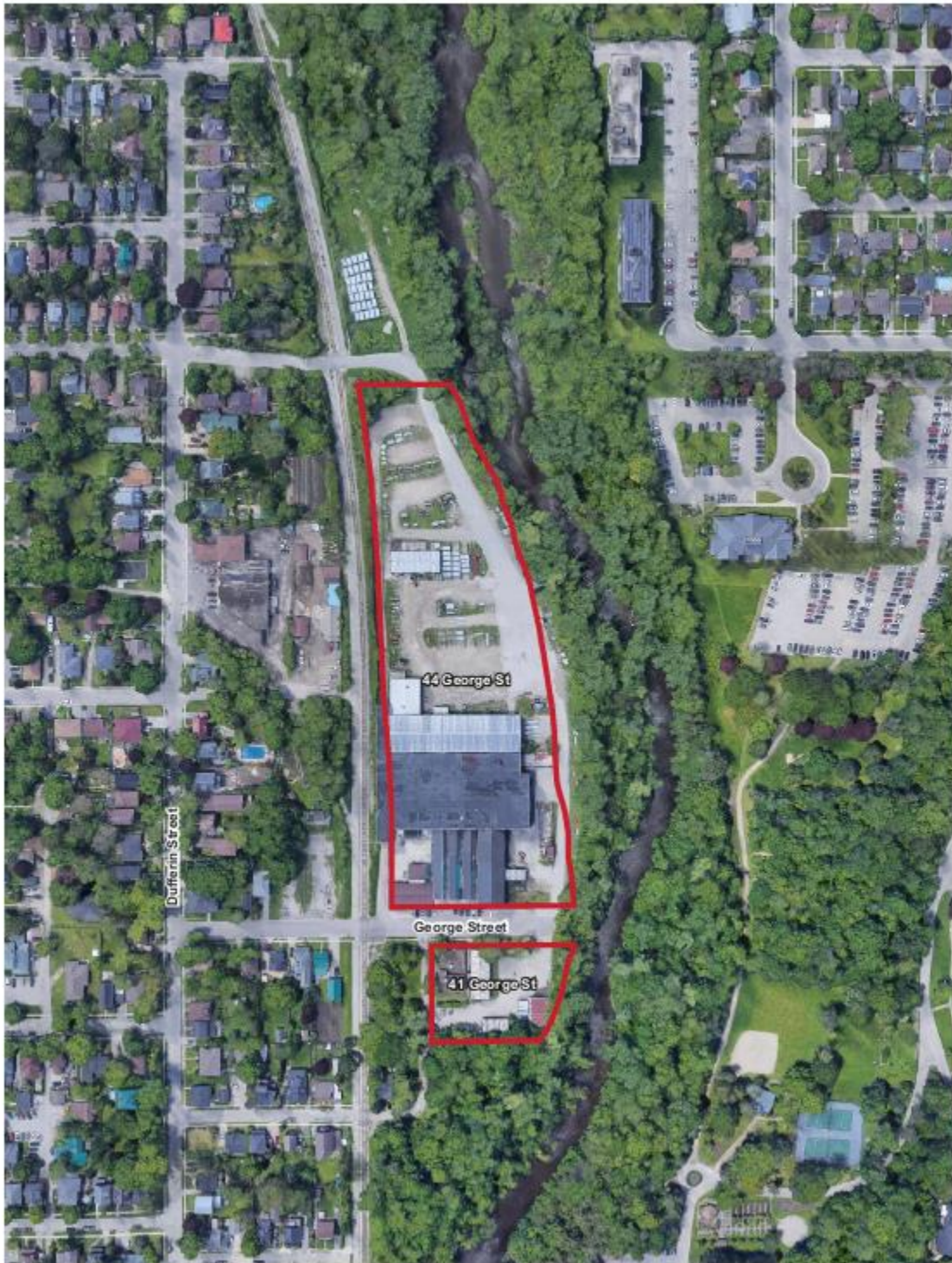
identified on Schedule 6 of the Official Plan as part of the Guelph's trail network and, more specifically, as a "water crossing" (i.e., future pedestrian bridge connection) to the east side of the Speed River on Map 3 (Proposed Trails) of the Guelph Trail Master Plan Update (May 2021). These existing and planned infrastructure and facilities would further support a *High Density Residential* designation on this Site.

F. Conclusion

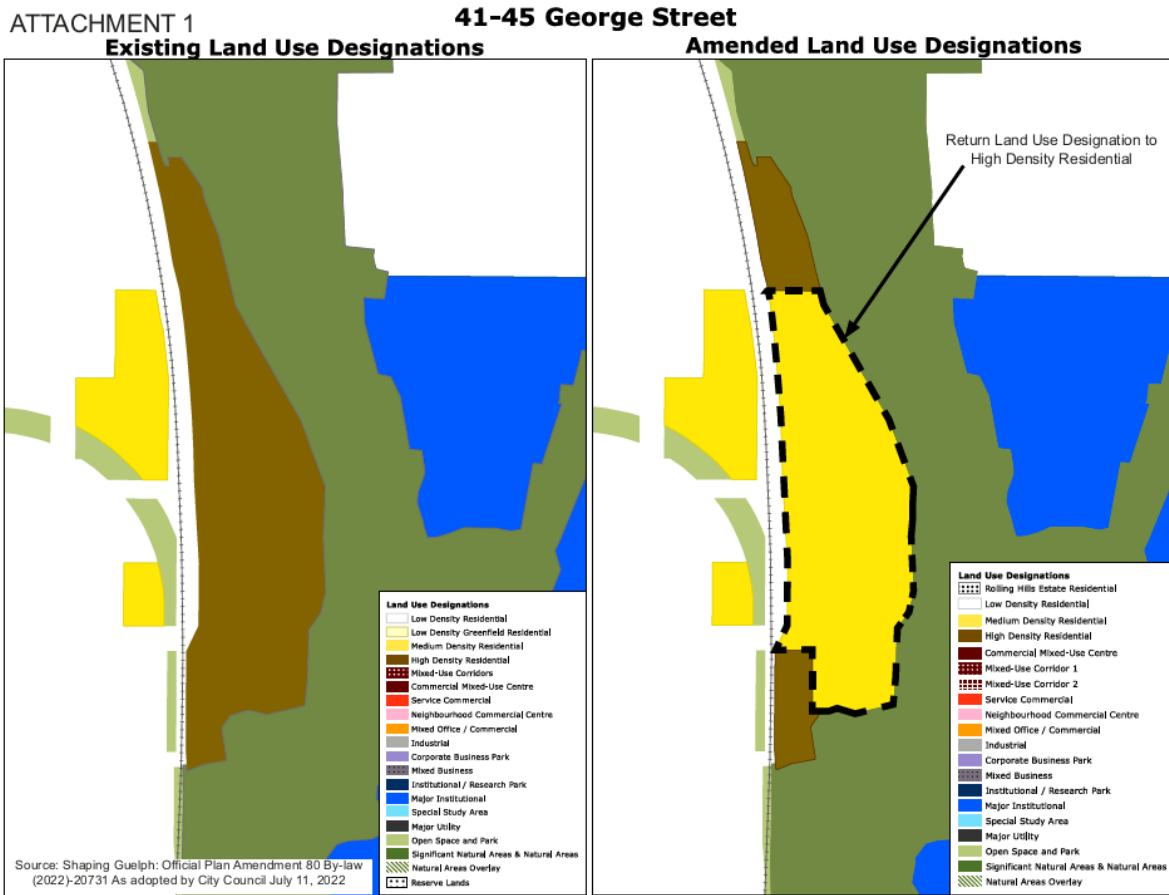
Based on the foregoing, we believe it is appropriate for the Minister to exercise his authority and to grant our request to reinstate the Site's *High Density Residential* designation prior to the Minister's approval of OPA 80.

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ATTACHMENT 1



ATTACHMENT 2





Eileen P. K. Costello
Direct: 416.865.4740
E-mail: ecostello@airdberlis.com

July 13, 2022

BY EMAIL: clerks@guelph.ca

City Clerk's Office
City of Guelph
1 Carden Street
Guelph, ON N1H 3A1

Dear Mayor Guthrie and Members of Council:

**Re: Special City Council Meeting on July 13, 2022 – Agenda Item No. 2.2
Statutory Public Meeting Report 2022-245
Comprehensive Zoning Bylaw Review and Proposed Official Plan Amendment**

Aird & Berlis LLP was recently retained by Armtec Inc. (“**Armtec**”) and WGI Westman Group Inc. Armtec is the owner of lands municipally known as 41 and 44 George Street in the City of Guelph (the “**Site**”).

The Site is dual designated in the in-force Guelph Official Plan: the portion east of the Guelph Junction Railway is designated High Density Residential while the portion west of the Guelph Junction Railway is designated Medium Density Residential.

The City undertook a municipal comprehensive review pursuant to section 26 of the *Planning Act* and initiated an official plan amendment in order to bring the current Official Plan into conformity with *A Place to Grow for the Greater Golden Horseshoe* (“**OPA 80**”). City of Guelph planning staff recommended in a staff report regarding OPA 80 that the Site maintain its dual designation. The version of OPA 80 which was provided to the public for review in advance of the open house, statutory public meeting and Council’s consideration of OPA 80 maintained that dual designation, consistent with the staff recommendation.

The proposed OPA 80 was considered by City Council on July 11, 2022 at a Special Meeting. We were advised by our client that, at that meeting and without notice, City Council passed a motion to ‘down-designate’ the eastern portion of the Site from High Density Residential to Medium Density Residential, contrary to the recommendations of Guelph staff. As this was done without notice our client was unable to make any deputation to Council with respect to the motion to ‘down-designate’ the Site.

Since that meeting, we have requested through our client’s planning consultant, GSP Group Inc., a formal copy of the July 11, 2022 Council meeting minutes and the impugned motion with respect to OPA 80.

Our client has serious concerns with the lack of notice and procedural unfairness regarding the motion which “down-designated” the eastern portion of the Site. In our view, the material change to the Site’s designation without any notice to our client is highly problematic. As you are well

aware, as OPA 80 was approved pursuant to section 26 of the *Planning Act*, the Council decision is not subject to an appeal by the public. As such, in our view it was incumbent upon the City to provide adequate notice of the proposed change to the designation of the Site and to afford our client the opportunity to make submissions and for those submissions to be considered. That opportunity was not afforded to Armtec.

In light of the foregoing, we respectfully request that any further decision regarding the Site, including the proposed zoning contemplated by the companion draft Comprehensive Zoning By-law in Agenda Item No. 2.2, be deferred until such time as our office has received and has an opportunity to review the July 11th Council meeting minutes and motion on OPA 80. We anticipate that once we have had that opportunity we will be providing further correspondence to the City and to the Minister of Municipal Affairs with respect to OPA 80.

We re-attach herein previous correspondence dated June 20, 2022 and July 8, 2022 filed by our client's planning consultant, Mr. Hugh Handy, which set forth Armtec's position on OPA 80 and the companion Comprehensive Zoning By-Law as they relate to the Site.

Thank you for considering our request.

Yours truly,

AIRD & BERLIS LLP



Eileen P. K. Costello

EPKC/JCMF

Encl.

cc. Hugh Handy, GSP Group Inc.
Jason Johnston, Armtec Inc.
Curtis Farmer, WGI Westman Group Inc.

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June 20, 2022

Project No. 21116

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

Attention: Melissa Aldunate
Manager, Policy Planning

Dear Ms. Aldunate:

**Re: Official Plan Amendment 80 (OPA 80)
41 George Street, Guelph
Armtec Canada Inc.**

GSP Group represents the owner of 41 George Street (the “Site”) related to land use planner matters. The Site is owned by Armtec Canada Inc. (“Armtec”).

The majority of the Armtec Site is on east side of the Guelph Junction Railway at the terminus of George Street and Earl Street. This portion of the Site is designated High Density Residential and Significant Natural Areas and Natural Areas in the Guelph Official Plan. There is additional land on the west side of the railway line which is designated Medium Density Residential.

We monitored the virtual public meeting on March 30, 2022 related to OPA 80. We noted the discussion surrounding the possible “down designation” of a portion of the Site designated High Density Residential.

The current Armtec industrial operation and offices are located with the High Density Residential area. It has long been the desire to see this area transition from heavy industrial to residential use. In fact, the Site is currently for sale and is being marketed as a residential development site.

The Site would be considered a brownfield site given its historic heavy industrial use. It is also a complex redevelopment site given it is adjacent to the Guelph Junction Railway and the Speed River and its associated natural heritage area. We further recognize that

this Site lies within an established neighbourhood and will require a balanced approach to all land use considerations for redevelopment.

Accordingly, in our opinion the High Density Residential and Medium Density Residential designations on the Site will provide the appropriate policy framework for the full and timely redevelopment of the Site. With that in mind, we would request no changes be made to the High Density Residential or Medium Density Residential designations related to the Site.

I would appreciate if this letter could be included in the public record for the upcoming Council meeting on July 11, 2022 and that I would be added to the notification list for any future decision on this matter.

If you have any questions or would like to discuss further, please do not hesitate to contact me in our Kitchener office by phone at 226-243-7296 or by email at hhandy@gspgroup.ca.

Yours very truly,
GSP Group Inc.



Hugh Handy, MCIP, RPP
Vice President

cc Curtis Farmer, Vice President, WGI Westman Group



July 8, 2022

Project No. 21116

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

Attention: Abby Watts, Project Manager
Comprehensive Zoning Bylaw Review

Dear Ms. Watts:

**Re: Statutory Public Meeting Report – July 13, 2022 – Item 4.2
Comprehensive Zoning Bylaw and Proposed Official Plan Amendment
41-44 George Street, Guelph
Armtec Canada Inc.**

GSP Group represents the owner of 41 George Street (the “Site”) related to land use planner matters. The Site is owned by Armtec Canada Inc. (“Armtec”).

The majority of the Armtec Site is on east side of the Guelph Junction Railway at the terminus of George Street and Earl Street. This portion of the Site is designated High Density Residential and Significant Natural Areas and Natural Areas in the Guelph Official Plan. Section 9.3.5.1 i) permits “multi unit residential buildings generally in the form of apartments. There is additional land on the west side of the railway line which is designated Medium Density Residential. Section 9.3.4.1 i) permits “multi unit residential buildings generally in the form of townhouses and apartments.”

The current Armtec industrial operation and offices are located with the High Density Residential area. It has long been the desire to see this area transition from heavy industrial to residential use. In fact, the Site is currently for sale and is being marketed as a residential development site.

The Site would be considered a brownfield site given its historic heavy industrial use. It is also a complex redevelopment site given it is adjacent to the Guelph Junction Railway and the Speed River and its associated natural heritage area. We further recognize that this Site lies within an established neighbourhood and will require a balanced approach to all land use considerations for redevelopment.

The Site is currently zoned B.4-15 (both east and west sides of the railway). Section 7.3.4.15.1 recognizes “Metal fabricating industry” operated by Armtec at 41 and 44 George Street.

The draft Comprehensive Zoning By-law (the “CZB”) dated July 2022 proposes to rezone the portion of the site on the east side of the railway line to High Density Residential 7 - RH.7(H13) and the portion of the Site on the west side of the railway line to Medium Density Residential 5 - RM.5(H13). The H13 is a holding provision that relates to both zones which is “To ensure that municipal services are adequate and available, to the satisfaction of the City, prior to intensification of the lands.”

Section 6.1 of the CZB outlines the applicable residential zones. The Medium Density Residential 5 (RM. 5) indicates, “The purpose of this zone is to accommodate on-street townhouses to a maximum height of 3 storeys, and cluster townhouses and apartment buildings to a maximum height of 4 storeys. Further, the High Density Residential 7 (RH. 7) indicates, “The purpose of this zone is to accommodate apartment buildings and to allow for small scale convenience commercial uses within a building that has a residential use to a maximum height of 10 storeys.

We have reviewed the list of permitted uses contained in Table 6.2 (Permitted uses in residential zones). Further to our recent discussions with City staff, in general, we believe allowing for the full range of townhouse uses in the RH.7 zone City-wide is appropriate. We believe allowing for more flexibility in types of residential uses and forms would provide for a greater range and mix of housing options in the RH.7 zone City-wide and for redevelopment of the Site. Accordingly, we would appreciate consideration of all forms of townhouses across the entire Site (east and west sides of the railway line) and would be open to meeting with City staff at the appropriate time to discuss as you consider further refinements the CZB.

Thank you for considering our comments. Please do not hesitate to contact me in our Kitchener office by phone at 226-243-7296 or by email at handy@gspgroup.ca should you wish to discuss or clarify our comments.

Yours very truly,
GSP Group Inc.



Hugh Handy, MCIP, RPP
Vice President

cc Mayor Guthrie and Members of Council
Curtis Farmer, Vice President, WGI Westman Group
Melissa Aldunate, Manager, Policy Planning and Urban Design, City of Guelph