



BY-LAW NUMBER 2023-057

A By-law of The Corporation of the City of Barrie to amend By-law 2009-141, a land use control by-law to regulate the use of land, and the erection, use, bulk, height, location and spacing of buildings and structures in the City of Barrie.

WHEREAS the Council of The Corporation of the City of Barrie deems in expedient to amend By-law 2009-141 to rezone lands legally described as Part of Lots 12, 13, 15 & 16, Concession 11 Plan 1274 and municipality known as 407, 411, 413, 417 & 419 Mapleview Drive West and as shown on Schedule "A" to this By-law, from Residential Single Detached Dwelling First Density (R1) to Residential Multiple Dwelling Second Density with Special Provisions (RM2)(SP-631); and;

AND WHEREAS the Council of the Corporation of the City of Barrie have reviewed a recommendation to amend By-law 2009-141 and has approved the recommendation; and;

WHEREAS the Ontario Land Tribunal orders that that the appeal against By-law No. 2022-009 of The Corporation of the City of Barrie is allowed and By-law No. 2022-009 is hereby repealed;

WHEREAS the Ontario Land Tribunal orders that the appeal is allowed in part and the By-law to amend The Corporation of the City of Barrie By-law No. 2009-141 is approved as per the Oral Decision and Order of the Tribunal for case number OLT-22-003244 on September 8, 2022. The Tribunal authorizes the municipal clerk of The Corporation of the City of Barrie to assign a number to this by-law for record keeping purposes; and;

WHEREAS authority is granted pursuant to Section 34 of the *Planning Act, R.S.O. 1990* to enact such amendments; and,

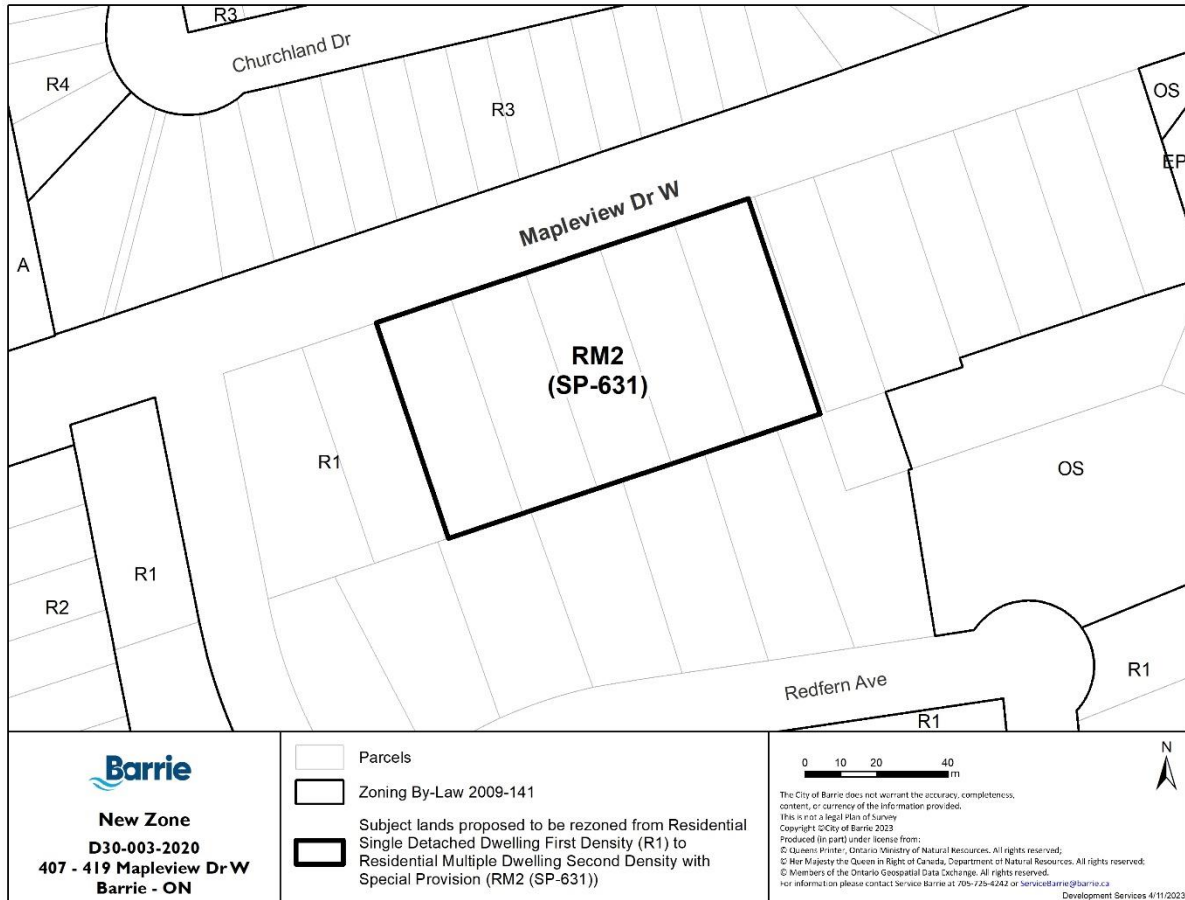
NOW THEREFORE be enacted as a By-law of the City of Barrie the following:

1. **THAT** the zoning map be amended to change the zoning from Residential Single Detached Dwelling First Density (R1) to Residential Multiple Dwelling Second Density – Special Provisions (RM2)(SP-631) pursuant to Zoning By-law 2009-141, in accordance with Schedule "A" attached to this By-law being a portion of the zoning map.
2. **THAT** notwithstanding the provisions set out in Section 5.3.1 of By-law 2009-141, a minimum front yard setback of 4.0 meters to building façade and 1.1 metres to exterior stairs is permitted in the 'Residential Multiple Dwelling Second Density – Special Provision No. 631' (RM2)(SP-631) Zone.
3. **THAT** notwithstanding the provisions set out in Section 5.3.1 of By-law 2009-141, a minimum landscaped open space of 27% of lot area is permitted in the 'Residential Multiple Dwelling Second Density- Special Provision No. 631' (RM2)(SP-631) Zone.
4. **THAT** notwithstanding the provisions set out in Section 5.3.1 of By-law 2009-141, a maximum lot coverage of 45% of lot area is permitted in the 'Residential Multiple Dwelling Second Density – Special Provision No. 631' (RM2)(SP-631) Zone.
5. **THAT** notwithstanding the provisions set out in Section 5.3.1 of By-law 2009-141, a maximum gross floor of 120% of lot area is permitted in the 'Residential Multiple Dwelling Second Density – Special Provision No. 631' (RM2)(SP-631) Zone.
6. **THAT** notwithstanding the provisions set out in Section 5.3.1 of By-law 2009-141, a maximum height of the Stacked/Back-to-Back Townhomes (Blocks 1 and 2) is 11.0 meters in the 'Residential Multiple Dwelling Second Density – Special Provision No. 631' (RM2) (SP-631) Zone.
7. **THAT** notwithstanding the provisions set out in Section 5.2.5.1 a.) and c.) of By-law 2009-141, a maximum density of 72 units per hectare is permitted in the 'Residential Multiple Dwelling Second Density – Special Provision No. 631' (RM2)(SP-631) Zone.
8. **THAT** notwithstanding the provisions set out in Section 5.2.5.2 of By-law 2009-141, the required amenity area is permitted to be unconsolidated in the 'Residential Multiple Dwelling Second Density – Special Provision No. 631' (RM2)(SP-631) Zone.

9. **THAT** notwithstanding the provisions set out in Section 4.6 of By-law 2009-141, tandem parking is permitted in the 'Residential Multiple Dwelling Second Density – Special Provision No. 631' (RM2)(SP-631) Zone.
10. **THAT** for the purposes of this by-law, the provisions of the *Planning Act* respecting the moratorium for amendment of, or variance to, this bylaw shall not apply.
11. **THAT** the remaining provisions of By-law 2009-141, as amended from time to time, applicable to the above-described lands as shown in Schedule "A" to this by-law shall apply to the said lands except as varied by this By-law.
12. **THAT** this By-law shall come into force and effect immediately upon the final passing thereof.

**AS PER ONTARIO LAND TRIBUNAL DECISION DATED APRIL 6, 2023
CASE NO OLT-22-003244**

SCHEDULE "A" TO ATTACHED BY-LAW 2023-057



Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: April 06, 2023

CASE NO(S):

OLT-22-003244

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant/Appellant: 407-419 Mapleview Inc. & Encore Group
Subject: Zoning By-law
Description: To permit the development of 46 townhomes
Reference Number: By-law 2022-009
Property Address: 407, 411, 413, 417 & 419 Mapleview Drive
Municipality/UT: Barrie/Simcoe
OLT Case No.: OLT-22-003244
OLT Lead Case No.: OLT-22-003244
OLT Case Name: 407-419 Mapleview Inc. and Encore Group v. Barrie (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant/Appellant: 407-419 Mapleview Inc. & Encore Group
Subject: Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description: To permit the development of 46 townhomes
Reference Number: D30-003-2020
Property Address: 407, 411, 413, 417 & 419 Mapleview Drive
Municipality/UT: Barrie/Simcoe
OLT Case No.: OLT-22-003245
OLT Lead Case No.: OLT-22-003244

Heard: October 11, 2022 by video hearing

APPEARANCES:

Parties

407-419 Mapleview Inc. and
Encore Group

Counsel

Paul De Melo

City of Barrie

Peter Krysiak

**MEMORANDUM OF ORAL DECISION DELIVERED BY JATINDER BHULLAR ON
OCTOBER 11, 2022 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] This was the first Case Management Conference (“CMC”) and a settlement hearing respecting an appeal filed by 407-419 Mapleview Inc. and Encore Group (“Applicant/Appellant”) pursuant to s. 34(19) of the *Planning Act* against the adoption of By-law No. 2022-009 by the City of Barrie (“City”). The Applicant/Appellant also has an appeal pursuant to s. 34(11) of the *Planning Act* for the failure or neglect of the City to make a decision regarding its Zoning By-law Amendment (“ZBA”) application. Both appeals relate to property municipally known as 407, 411, 413, 417 and 419 Mapleview Drive West (“Lands”) in the City.

[2] The Affidavit of Service sworn by Sarah Kagan dated October 10, 2022 was provided to the Tribunal with a corrected Notice of Hearing. The issue was the incorrect start date for the hearing not recognizing a statutory holiday. It was noted that administratively it did not meet the Tribunal direction to be informed within 14 days after notice is given. However, it was confirmed that the original notice was served on time and with Tribunal provided direction. Thus, the Affidavit of Service by Sarah Kagan was marked as Exhibit 1 for the record to reflect that a proper service for the hearing has been carried out.

[3] There were no requests received for the granting of party or participant status.

WITNESS AND EVIDENCE

[4] There was only one witness at the settlement hearing. Darren Vella was sworn and qualified to provide expert opinion evidence in the area of land use planning.

[5] Mr. Vella provided an Affidavit with his planning analysis and opinions (Exhibit 2).

He used this to anchor his testimony at the hearing.

[6] Mr. Vella described the Lands as five residential lots, with each lot containing a single- detached dwelling, driveway access onto Maplevue Drive West, and accessory structures/buildings. The five lots are largely comprised of landscaped lawns with vegetation generally oriented along their boundaries. All existing buildings and structures will be demolished subject to approval of these applications.

[7] Mr. Vella described the site context for the lands as follows:

North: Abutting the Lands to the north is Maplevue Drive West. Further to the north exist schools, parks, and expansive urban residential subdivisions, comprising of a mix of housing types including townhomes, semi-detached, and single detached dwellings.

East: Abutting the Lands to the east is a municipally owned walkway that connects Maplevue Drive West to Redfern Park. Further east are single detached dwellings, as well as commercial, institutional, and industrial uses that exist along the Essa Road Corridor and Maplevue Drive. Access to City of Barrie Transit Route's 7 and 8 is also provided at the intersection of Maplevue Drive West and Essa Road. Additionally, Highway 400 and Park Place exist approximately 2.85 kilometres east of the subject lands.

South: Directly abutting the lands to the south are Redfern Park and single detached dwellings that appear to be historically developed on private individual septic systems based on their lot size and age.

West: The lands to the west are two single detached dwellings before hitting Redfern Avenue. Further west exists a mix of housing types along Maplevue Drive West such as an apartment building and townhomes, as well as commercial and institutional uses.

[8] Mr. Vella reviewed the original proposal for 88 unit to the now 46 units. He summarized the changes that reflect how the final settlement proposal evolved to be agreeable to both the parties. He stated the highlighted changes that formed the basis of reaching a settlement and the following is extracted from his Affidavit:

a. **Unit count reduction** – the unit count has been substantially reduced from 88 to 46 units. This represents almost a 50% unit reduction.

b. **Density has been reduced** – as a result of the decreased unit count, density has been reduced from 138 unit per hectare to 72 units per hectare.

- c. **Built form and massing changes (Community Character)** – the built form has seen drastic changes evolving from 4 back to back buildings at 4.5 stories (15 metres) to standard townhomes that require no variation to the 10 metre height requirement and back to back/stacked townhomes that propose a modest height increase along Mapleview Drive West, an arterial road in the City, to 12.5 metres. This has been reduced as part of the settlement with the City to 11.0m.
- d. **Rear facing units (Community Character)** – rear front facing units have been eliminated. Previously “front doors” faced the rear property line at one storey above grade. This has been eliminated in favour of a traditional rear yard to rear yard interface between the standard townhomes and the existing lots along Redfern. The rear yard setback for these units also complies with the Zoning Bylaw requirement of 7 metres.
- e. **Roof pitches (Community Character)** – the standard townhomes propose a pitched roof, which is complimentary to the neighbourhood area. As part of the settlement the Mapleview fronting units will also possess roof pitches.
- f. **Rear facing rooftop decks** – all rear facing rooftop decks have been removed. This provides for greater privacy for abutting residents. The rooftop decks facing Mapleview Drive West were reduced from 20 to 8 units and have now been eliminated as part of the settlement with the City.
- g. **Vehicular traffic flow** – with the reduction in unit count, traffic is significantly decreased, and circulation onsite has been reconfigured to provide a more direct pattern of access for residents and services. In addition to this, the internal private road is now proposed as a one-way road with the entrance at the west end of the site and the exit at the east end of the site.
- h. **Fire Safety** – the previously proposed hammerhead turn-around has been eliminated with the addition of the one-way road. This

provides for a seamless fire route through the property.

i. **Structured Parking** – structured parking has been completely eliminated. Each dwelling is now provided with a private garage and driveway space; therefore each unit has a minimum of 2 parking spaces.

j. **Front Yard Setback** – the proposed front yard setback has increased from 2.5m to 4.0m. This provides both adequate building and street separation, while also providing for a 2m landscaping buffer between the built form at the lot line. In addition, the current boulevard along Mapleview is 7m wide, therefore an 11m setback from the built form to street is provided.

k. **Increased landscape buffers** – landscape buffers along the east and west property line are now a minimum of 3m, as per the RM2 Zone. This is in addition to land being conveyed to the municipality for an expanded walkway to Redfern Park.

l. **Lot Coverage** – the lot coverage has been decreased from 58% to 50%.

m. **Gross Floor Area** – the GFA has also been decreased from 152% to 120%.

[9] Mr. Vella stated that the s. 34(19) appealed By-law No. 2022-09 was enacted in spite of the staff recommendations and did not address the Applicant/Appellant request.

[10] Mr. Vella stated that the ZBA that has been developed as part of the settlement duly addresses community concerns. This included considerations for rear yard and interior side yard setbacks; tree preservation; fencing, landscaping and privacy screens; private individual rear yard and roof-top amenity areas; traffic; and density and community character.

[11] Mr. Vella reviewed the performance parameters that are sought in the ZBA and their benefits. He then provided his planning opinion regarding statutory considerations

as follows:

Provincial Interest

Section 2 of the *Planning Act* requires that the Minister, the council of a municipality, a local board, a planning board and the Tribunal, shall have regard to, among other matters, matters of provincial interest. He opined that the Redevelopment in the form of a 46-townhouse development is consistent with the *Planning Act* and has regard to matters of Provincial interest as follows:

- i. Located within the settlement area of Barrie, where intensification is to occur.
- ii. Utilizes existing and available infrastructure (sewage, water and waste management systems) and public service facilities such as transit and schools.
- iii. Provides for a variety of residential units and tenure.
- iv. Provides a compact form of development that minimizes impacts to climate change.
- v. Designed with a pedestrian-oriented built form with seamless pedestrian connections to the municipal sidewalk to support active transportation.
- vi. Designed with a pedestrian-oriented built form with seamless pedestrian connections to the municipal sidewalk to support active transportation.

PROVINCIAL POLICY STATEMENT, 2020 ("PPS 2020")

The proposed development aligns with the policies of the PPS and supports the development of healthy, liveable, and safe communities. In alignment with the PPS, the proposed development will direct residential intensification and redevelopment to the City of Barrie, in a compact, transit-supportive form that can be serviced by existing municipal infrastructure and public service facilities. The higher density offered through the proposed development will maximize upon the existing infrastructure, resources, and facilities of the area, thereby demonstrating an efficient and cost-effective use of the land. The proposed rezoning will accommodate for townhomes, thereby supporting the provision of a range of residential types within the area in order to meet current and future resident needs. The proposed rezoning will also facilitate a more compact built form, lending to an environment that encourages pedestrian activity and active transportation.

Overall, the proposed development demonstrates the integration of land-use planning, growth management, transit-supportive development, intensification, and infrastructure planning. Through a review of the applicable policies noted above, the proposed development demonstrates consistency with the Provincial Policy Statement.

PLACE TO GROW: GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE, 2020 (the "Growth Plan")

The proposed Redevelopment will facilitate growth and intensification in alignment with the goals and strategies of the Growth Plan. The proposed Zoning By-law Amendment will offer a higher-density residential development that will contribute to a diverse range of housing options and densities within the area, diversifying the overall housing stock within the City. The proposed development will appropriately provide for intensification within the delineated built-up area and in a location where there is the opportunity to maximize upon existing infrastructures and public service facilities. Overall, the proposed development provides for efficient and responsible growth and intensification within the principle primary settlement area of the Simcoe Sub-area.

Through a review of the applicable policies noted above, the proposed development demonstrates conformity to the intent and policies of the Growth Plan.

CITY OF BARRIE OFFICIAL PLAN, 2018 CONSOLIDATION ("COP")

The scale and physical character of the proposed development is compatible with and respectful to the existing and evolving character of the surrounding neighbourhood.

The proposed development is well-positioned to maximize upon the existing infrastructure, transportation facilities, community facilities, and services of the area. A Functional Servicing Report (FSR) has been provided to demonstrate the ability to connect to existing municipal water, sewer, and stormwater infrastructure. A number of community facilities exist within the area including institutions from both public and catholic school boards. Both vehicular and pedestrian infrastructure are available to support the proposed development.

[12] On the basis of his written and oral testimony at the hearing, Mr. Vella concluded that the proposal meets all the statutory tests and represents good land use planning.

[13] Mr. Vella also testified regarding Zoning By-law No. 2022-009 adopted by the City for the Lands. He opined that the City instead of responding to the Applicant/Appellant request for the ZBA and rendering a decision on the application before them, adopted a site specific zoning by-law amendment affecting the Lands without due and complete regard for the Applicant/Appellant request. Mr. Vella noted that the settlement ZBA while addressing exactly the same Lands thus efficiently and necessarily replaces rather than amends By-law No. 2022-009 adopted by the City. He

opined that as part of the appeal pursuant to s. 34(19) against By-law No. 2022-009, should be not approved and repealed.

[14] Mr. Vella for further clarity testified, that the ZBA Application made by the Applicant/Appellant has requested amendment to the City By-law No. 2009-141 and not an amendment to By-law No. 2022-009.

ANALYSIS

[15] The Tribunal notes that Mr. Vella provided land use planning opinion evidence, which was comprehensive, uncontroverted and unopposed. He showed the consistency and conformity achieved by the requested ZBA and the good land use planning virtues of the proposed development.

[16] Thus, having regard for the material that was before the approval authority when it made its decision, the information on file and the uncontroverted and unopposed land use planning opinion evidence of Mr. Vella, the Tribunal finds that, the ZBA has appropriate regard for the matters of Provincial Interest, is consistent with PPS 2020, conforms with the Growth Plan, the City Official Plan and represents good land use planning.

[17] The Tribunal also finds based on the uncontroverted and unopposed testimony of Mr. Vella, that the By-law No. 2022-009 is not appropriate for the development of the subject Lands. It is contradictory to the supported ZBA for which the required uncontroverted and unopposed land use planning opinion evidence has been provided by Mr. Vella.

ORDER

[18] **THE TRIBUNAL ORDERS** that the appeal against By-law No. 2022-009 of The Corporation of the City of Barrie is allowed and By-law No. 2022-009 is hereby repealed.

[19] **THE TRIBUNAL ORDERS** that the appeal is allowed in part and the By-law to amend The Corporation of the City of Barrie By-law No. 2009-141 is approved as per Attachment 1 to this Order. The Tribunal authorizes the municipal clerk of The Corporation of the City of Barrie to assign a number to this by-law for record keeping purposes.

[20] Pursuant to Rule 24.3 of the Tribunal's *Rules of Practice and Procedure*, this Order shall be, and was, effective as of the date of the hearing of this Appeal, and the delivery of the Oral Decision and Order of the Tribunal, on September 8, 2022.

"Jatinder Bhullar"

JATINDER BHULLAR
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT 1

APPENDIX "A"

DRAFT ZONING BY-LAW AMENDMENT

BY-LAW NUMBER 2022-XXX

A By-law of The Corporation of the City of Barrie to amend By-law 2009-141, a land use control by-law to regulate the use of land, and the erection, use, bulk, height, location and spacing of buildings and structures in the City of Barrie.

WHEREAS the Council of The Corporation of the City of Barrie deems in expedient to amend By-law 2009-141 to rezone lands legally described as Part of Lots 12, 13, 15 & 16, Concession 11 Plan 1274 and municipality known as 407, 411, 413, 417 & 419 Mapleview Drive West and as shown on Schedule "A" to this By-law, from the Residential Single Detached Dwelling First Density (R1) to the Residential Multiple Dwelling Second Density with Special Provisions (RM2(SP-XXX)); and;

WHEREAS authority is granted pursuant to Section 34 of the *Planning Act, R.S.O. 1990* to enact such amendments; and,

NOW THEREFORE be enacted as a By-law of the City of Barrie the following:

1. **THAT** the zoning map be amended to change the zoning from Residential Single Detached Dwelling First Density (R1) to Residential Multiple Dwelling Second Density – Special Provisions (RM2) (SP-XXX) pursuant to Zoning By-law 2009-141, in accordance with Schedule "A" attached to this By-law being a portion of the zoning map.
2. **THAT** notwithstanding the provisions set out in Section 5.3.1 of By-law 2009-141, a minimum front yard setback of 4.0 meters to building façade and 1.1 meters to exterior stairs is permitted in the 'Residential Multiple Dwelling Second Density – Special Provision No. XXX' (RM2) (SP-XXX) Zone.
3. **THAT** notwithstanding the provisions set out in Section 5.3.1 of By-law 2009-141, a minimum landscaped open space of 30% of lot area is permitted in the 'Residential Multiple Dwelling Second Density- Special Provision No. XXX' (RM2) (SP-XXX) Zone.
4. **THAT** notwithstanding the provisions set out in Section 5.3.1 of By-law 2009-141, a maximum lot coverage of 50% of lot area is permitted in the 'Residential Multiple Dwelling Second Density – Special Provision No. XXX' (RM2) (SP-XXX) Zone.
5. **THAT** notwithstanding the provisions set out in Section 5.3.1 of By-law 2009-141, a maximum gross floor of 120% of lot area is permitted in the 'Residential Multiple Dwelling Second Density – Special Provision No. XXX' (RM2) (SP-XXX) Zone.

6. **THAT** notwithstanding the provisions set out in Section 5.3.1 of By-law 2009-141, a maximum height of the Stacked/ Back-to-Back Townhomes (Blocks 1 and 2) is 11.0 meters in the 'Residential Multiple Dwelling Second Density – Special Provision No. XXX' (RM2) (SP-XXX) Zone.
7. **THAT** notwithstanding the provisions set out in Section 5.2.5.1 a.) and c.) of By-law 2009-141, a maximum density of 72 units per hectare is permitted in the 'Residential Multiple Dwelling Second Density – Special Provision No. XXX' (RM2) (SP-XXX) Zone.
8. **THAT** notwithstanding the provisions set out in Section 5.2.5.2 of By-law 2009-141, the required amenity area is permitted to be unconsolidated in the 'Residential Multiple Dwelling Second Density – Special Provision No. XXX' (RM2) (SP-XXX) Zone.
9. **THAT** notwithstanding the provisions set out in Section 4.6 of By-law 2009-141, tandem parking is permitted in the 'Residential Multiple Dwelling Second Density – Special Provision No. XXX' (RM2) (SP-XXX) Zone.
10. **THAT** notwithstanding the provisions set out in Section 5.2.5.2(e) of By-law 2009-141, a minimum 4.0 metre wide one-way internal private roadway is permitted for block/cluster/back to back/stacked townhouse development.
11. **THAT** for the purposes of this by-law, the provisions of the *Planning Act* respecting the moratorium for amendment of, or variance to, this bylaw shall not apply.
12. **THAT** the remaining provisions of By-law 2009-141, as amended from time to time, applicable to the above-described lands as shown in Schedule "A" to this by-law shall apply to the said lands except as varied by this By-law.

THAT this By-law shall come into force and effect immediately upon the final passing thereof.

READ a first and second time this _____ day of _____, 2022.

READ a third time and finally passed this _____ day of _____, 2022.

THE CORPORATION OF THE CITY OF
BARRIE

MAYOR – J.R. LEHMAN

CITY CLERK – WENDY COOKE

Schedule "A" to Attached By-law 2022-XXX

