

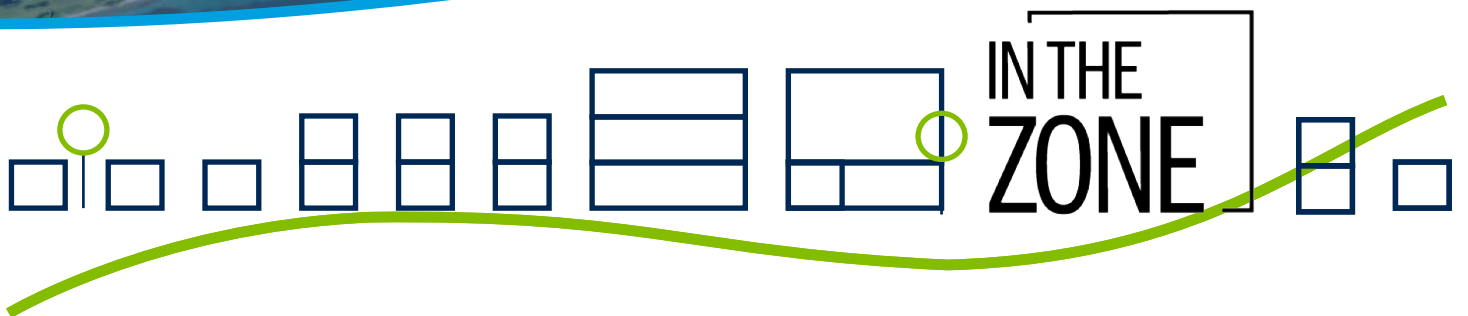
Prepared By:



# Issues Identification Report

Town of Whitby Comprehensive Zoning By-law Study

February 2021



Prepared For:





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# 1. Introduction



## 1.1 Study and Report Overview

The Whitby Zoning By-law Review Study (the Study) is a comprehensive phased undertaking that sets out to update Whitby's existing zoning by-laws into a new single Comprehensive Zoning By-law for the Town. The overall intent of the Study is to create a new zoning by-law to implement the Town's Official Plan. The new Comprehensive Zoning By-law should:

- Be clear, concise and easy to read;
- Provide necessary land use and built form direction; and
- Be flexible in implementation, where appropriate.

This Study includes a review of the Town of Whitby's three existing zoning by-laws, which include:

- Zoning By-Law #1784 ("1784");
- Zoning By- Law #2585 ("2585"); and
- Oak Ridges Moraine Zoning By-Law #5581-05 ("5581-05").

The scope of this Study includes the entirety of the Town Whitby, with the exception of the Brooklin expansion area. The Study area is shown in **Figure 1**.

The boundaries of the three existing zoning by-laws are also shown in **Figure 1** and are described below.

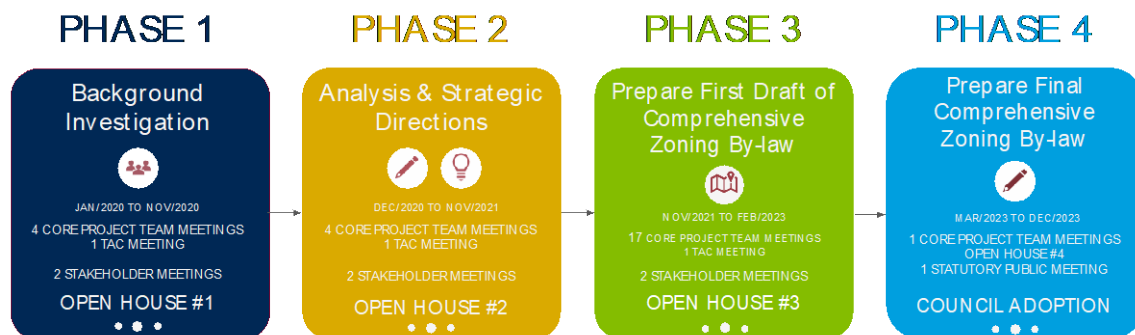
- Zoning By-law 1784 covers an extensive area of the Town. This zoning by-law applies from Lake Ontario north, to the boundary of the Oak Ridges Moraine Conservation Plan, which generally begins along Myrtle Road West, except where Zoning By- law 2585 applies.
- The boundaries of Zoning By-law 2585 do not follow major roads, however this zoning by-law covers the Downtown and generally applies to the area south of Rossland Road, east of the West Whitby area and west of Thicksen Road North, extending south to the Lake Ontario shoreline.
- Oak Ridges Moraine Zoning By-law 5581-05 covers the smallest area. It applies in the area covered by the Oak Ridges Moraine Conservation Plan and Oak Ridges Moraine Secondary Plan, generally in the area around and to the north of Myrtle Road East.



The purpose of Phase 1 of the Study was to gain an understanding of Whitby’s existing zoning framework in order to assist in determining the structure and content of Whitby’s new Comprehensive Zoning By-law. This Issues Identification Report forms the final component of Phase 1 and provides a summary of each of the reports prepared as part of Phase 1. The 11 reports include:

- Structure Report;
- Administration Report;
- General Provisions Report;
- Residential Report;
- Commercial Report;
- Employment Report;
- Mixed Use Report;
- Other Zones Report;
- Site Specific Exceptions Report;
- Definitions Report; and
- Parking Report.

**Figure 2** provides an overview of each phase of the Study. Based on the research conducted and preliminary findings from Phase 1, Phase 2 will focus on analyzing the issues identified for each zoning by-law topic in order to develop recommendations and approaches. Each of the 11 reports completed as part of Phase 1 will be updated to include a discussion of options for approaching the structure of the by-law and provide a recommended approach. Following Phase 2, Phase 3 and 4 will involve the preparation of a draft and final version of the new Comprehensive Zoning By-law for the Town.



**Figure 2. Whitby Zoning By-law Review Study Work Plan**

## 1.2 Phase 1 Overview

The following provides a summary of the analysis and review completed under each subject area/Phase 1 report.

### Review of Whitby's Existing Zoning By-laws

For each report, the applicable structure and content of the Town's three existing zoning by-laws were compared and reviewed. The analysis involved a comprehensive comparison across the zoning by-laws and an identification of issues. This analysis included tables comparing the permitted uses and provisions found in each of the by-laws for each related zone. From that comparison, similarities and differences across the zones in the three by-laws were identified. As well, inconsistencies and redundancies across the by-laws were identified, as well as other issues, such as outdated provisions or missing provisions.

### Best Practice Review

Municipalities across Ontario have taken various approaches to their zoning by-laws. In order to understand current best practices, a review of newer zoning by-laws from other municipalities was conducted. The example zoning by-laws were from the municipalities shown in **Figure 3**:

These example zoning by-laws were chosen based on a number of different factors, including:

- Locale - to review by-laws within southern Ontario;
- Approval date - to review relatively recent by-laws, such as in the case of East Gwillimbury and Vaughan (draft);
- Clarity - to consider by-laws that had been noted in other planning work as being clear, concise and well organized, such as Milton and Ajax; and
- Uniqueness - to review by-laws that brought a unique or interesting element, such as the use of colour in the by-law in St. Catharines or illustrations in Oakville.

### Official Plan Direction

The new Comprehensive Zoning By-law must conform with the Town of Whitby Official Plan. The Whitby Official Plan was recently updated through a comprehensive review which received final approval in June of 2018. A review of the Official Plan was conducted to identify policies that will influence the direction for the new Comprehensive Zoning By-law.

Additionally, the existing zoning was reviewed against the Official Plan policies, highlighting any differences in permitted uses or built form permissions that did not align.



Figure 3. Location of Best Practice Review Municipalities



## **Minor Variance Analysis**

It is difficult for zoning by-law provisions to take into account all circumstances such as lot size, lot shape, and yard setbacks that may affect the development of a particular property. In unique cases, a property owner may apply to the Committee of Adjustment for a minor variance to the zoning by-laws, requesting relief from adhering to certain requirements of the zoning by-law.

One of the ways to identify provisions that need updating is through a review of past minor variances. If numerous minor variances are being sought and approved for the same matter, it may be an indication of a provision that is either overly strict or antiquated. As part of the relevant background reports, minor variances over the last 10 years were reviewed to identify any reoccurring provisions.

### **1.2.1. Further Considerations and Next Steps**

Each Phase 1 report included a summary of preliminary findings and further considerations, including issues and matters to be considered in more detail in Phase 2. Each of these matters will be further explored in Phase 2 of this Study in determining the content and structure of the new Comprehensive Zoning By-law.

The following sections of this Report provide an overview of each of the 11 Phase 1 reports.

## 2. Administration Report



An Administration Report was prepared to review and evaluate the administration sections of the Town of Whitby's zoning by-laws. The administration section generally lays out the authority of how the by-law is implemented.

### 2.1 Zoning By-law Administration Overview

All three of Whitby's zoning by-laws have sections titled "Administration", and each zoning by-law also contains relevant administration provisions found outside of these sections. Each of the three existing zoning by-laws are organized differently. The administration sections and provisions are laid out in different orders across the zoning by-laws, often under different subheadings.

Our analysis included a comparison table highlighting similarities and inconsistencies across the three by-laws. It also included a review of the administration sections of example by-laws and an examination of relevant Official Plan policies.

### 2.2 Key Takeaways

From the above noted analysis, there are a number of basic administration provisions which are typical to both the existing Whitby zoning by-laws and the example zoning by-laws that should be incorporated into the new Comprehensive Zoning By-law, including, for example:

- Title;
- Location or defined area;
- Violations and penalties;
- Repeal of existing or preceding by-laws;
- Zone classifications; and
- Holding zones and symbols.

The zoning by-law should also contain interpretation provisions such as:

- Symbols;
- Zone boundaries;
- Interpretation of tense, singular and plural; and
- Validity.

The example zoning by-laws also contain a number of administration and interpretation provisions that may be useful for the Comprehensive Zoning By-law including:

- Transition provisions;
- The use of illustrations;
- Technical changes not requiring an amendment; and
- Use of “shall” or “must”.

There are a number of provisions in the existing Whitby zoning by-laws which are not commonly found in other zoning by-laws and may not be suitable for inclusion in the new Comprehensive Zoning By-law, for example:

- Provision classifying a use as residential or non-residential;
- Interpretation of the word Alter; and
- Provisions already addressed by other legislation or by-laws such as the Building Code.

The following will be further evaluated in Phase 2 of the Study:

- Which specific provisions from the three existing zoning by-laws should be brought forward, and if there is a need for updates or revisions;
- The specific wording of new provisions recommended from other zoning by-law examples; and
- The location of the administration information, whether within one comprehensive administration section or multiple sections such as “Interpretation” vs. “Administration”.

## 3. Structure Report



A Structure Report was prepared to review and evaluate the potential new structure of Whitby's new Comprehensive Zoning By-law. It considered the layout and organization of the three existing zoning by-laws and considered tools to improve readability.

### 3.1 Overview of Zoning By-law Structure

As part of the analysis of the existing zoning by-laws, a comparison of the different sections in the three zoning by-laws was undertaken. There is some consistency between how the three zoning by-laws are organized in terms of the overall order and having independent definitions and general provisions sections. There are also organizational differences, such as where parking and loading requirements and exceptions are located within each of the zoning by-laws.

#### 3.1.1. Structural Options

There are a number of ways in which the zone permissions and provisions of the new Comprehensive Zoning By-law can be organized. The following sets out six different approaches.

##### Approach 1: Traditional Zoning By-law

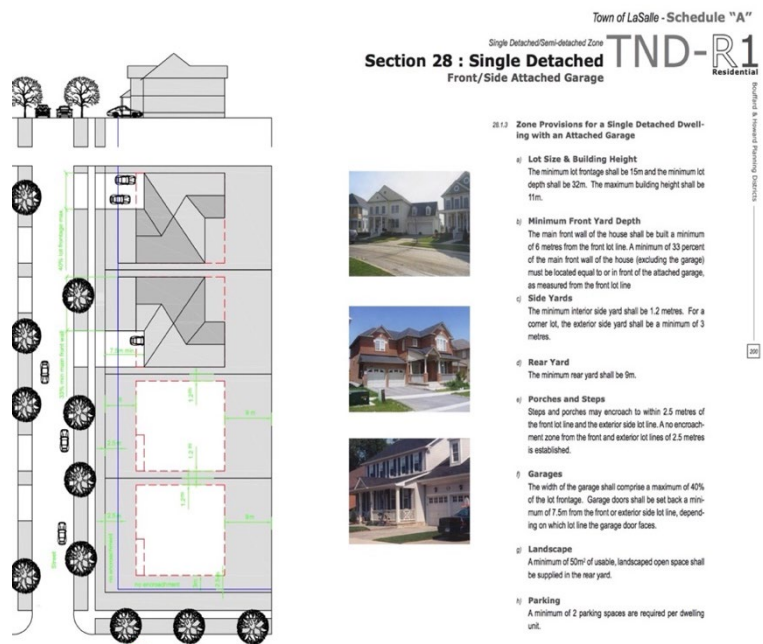
- The traditional zoning approach groups zones by major land use categories, such as “Residential”, “Commercial”, “Industrial”, etc., with different zones for different groups of uses and densities.
- In many older zoning by-laws, this grouping includes multiple residential zones organized by lot and frontage and by housing type.
- The traditional zoning approach can result in the duplication of information across similar zones and discourages a mix of housing on a block in new greenfield areas.

##### Approach 2: Official Plan Categories

- The Official Plan Categories approach aligns zones to the Official Plan and Secondary Plan designations, creating transparency and ensuring the intent of the Official Plan is met.
- The approach could lead to a large number of zones and/or duplication given the number of unique Secondary Plan designations that exist in Whitby.

### Approach 3: Form Based Code

- The Form Based Code approach emphasizes the design and built form character of an area by applying detailed controls on the form, shape, and features of a building while providing more flexibility in the permitted uses.
- This approach is not widespread in Ontario or comprehensively used across an entire municipality; typically only within targeted areas.
- Form based code is graphically based with figures illustrating the zone requirements, as shown in **Figure 4**.



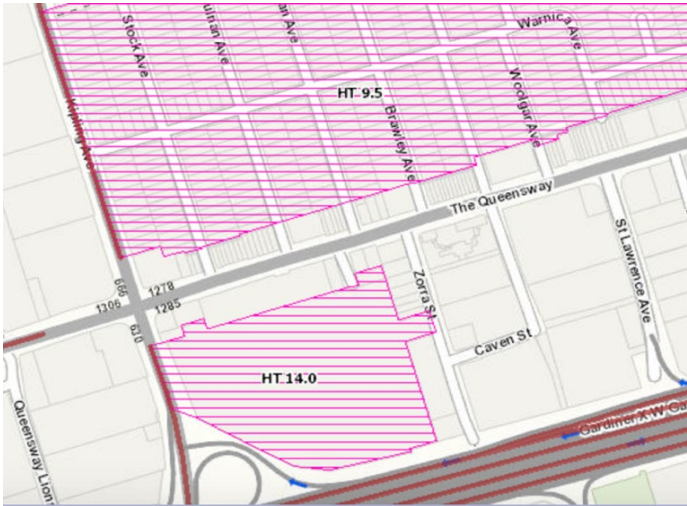
**Figure 4. Excerpt from Form Based**  
Source: LaSalle Zoning By-law 50-50, Schedule A

### Approach 4: Land Use Categories

- The land use categories approach provides permission for a broad range of uses in a single zone, such as singles, townhouses and semis, with specific zone provision for each housing type or use.
- There may be instances where only a certain type of housing or density is appropriate; for instance, in an older large lot, stable residential neighbourhood where the Town wants to protect the large lot character.

**Approach 5: Overlay Zones**

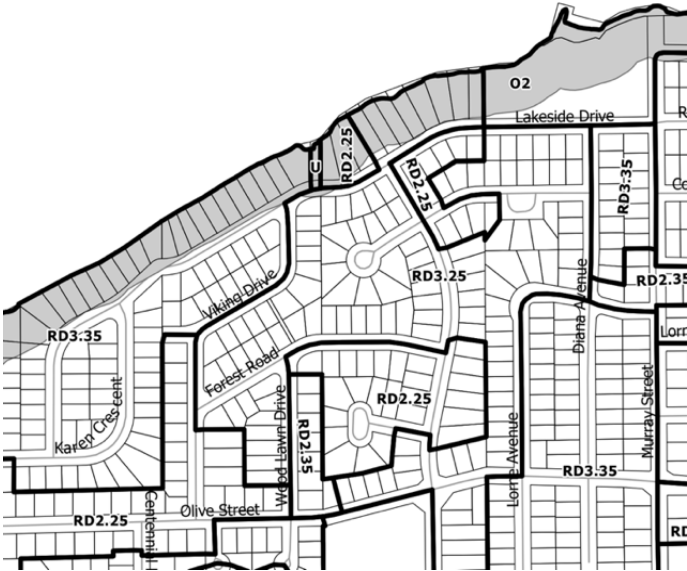
- An overlay zone approach applies a specific requirement across different zones and can be used to regulate specific elements in addition to the base zoning. For example, a height overlay may set the maximum height across multiple zones.
- Typically this approach is used to address height, as seen in **Figure 5**, where the base zoning information applies, but there is an additional height requirement shown with an overlay zone.
- Can be applied to address specific issues in targeted areas such as: to apply restrictions in flood plains and hazard lands, to apply parking relief in particular areas, or to prohibit specific uses in particular areas.



**Figure 5. Example Building Height Overlay**  
Source: Toronto Zoning By-law Interactive Map

**Approach 6: Standard Sub-Categories**

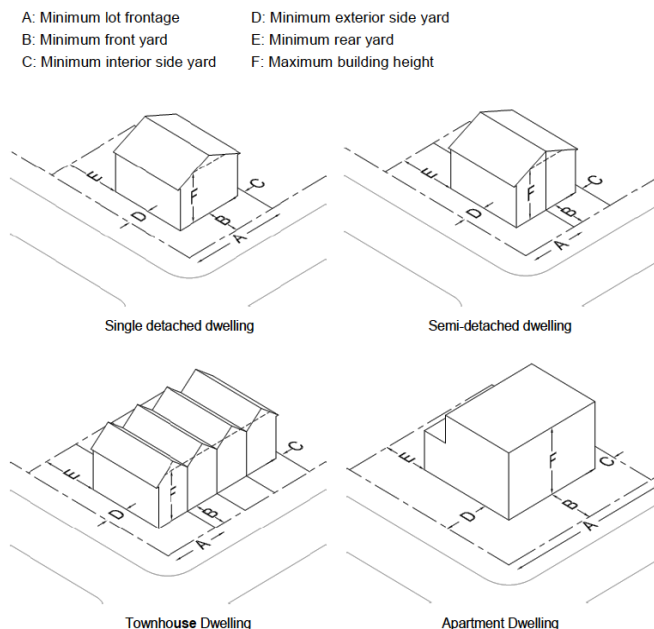
- Similar to overlay zones, sub-categories approach can be used to identify different provisions that apply to multiple zones.
- This approach reduces the number of zones if only one standard is changing.
- The Town of Grimsby used sub-categories to differentiate permitted lot coverage requirements based on the existing built form across the same zone in order to protect neighbourhood character, as seen in **Figure 6**. Rather than create new zones, or an overlay, the Town used coverage subcategories to delineate different coverages.



**Figure 6. Coverage Sub-Categories Example**  
Source: Grimsby Zoning By-law 14-45, Schedule 5-A

### 3.1.2. Layout and Organization Options

- There are also a number of options to consider for the overall layout and organization of the new Comprehensive Zoning By-law, which include the following:
- The inclusion of a user guide section which provides clarification on how a zoning by-law should be read and used, including how to find property-specific zoning information and how to read the maps and/or schedules;
- Whether definition section should be at the back or front of the zoning by-law;
- Whether parking and loading requirements should be located in their own section;
- The use of tables, which are able to show zone provisions such as permitted uses, zone standards or other requirements, in a manner that is clear and easy to understand;
- The use of illustrations to assist in explaining key concepts, as seen in **Figure 7**;
- The use of coloured zoning schedules, as seen in **Figure 8** and **9**; and
- Numbering of the zoning by-law, with opportunities to simplify the organization so that lengthy and complicated section numbers like "5Eiii)ix)2k)iii)" don't arise.

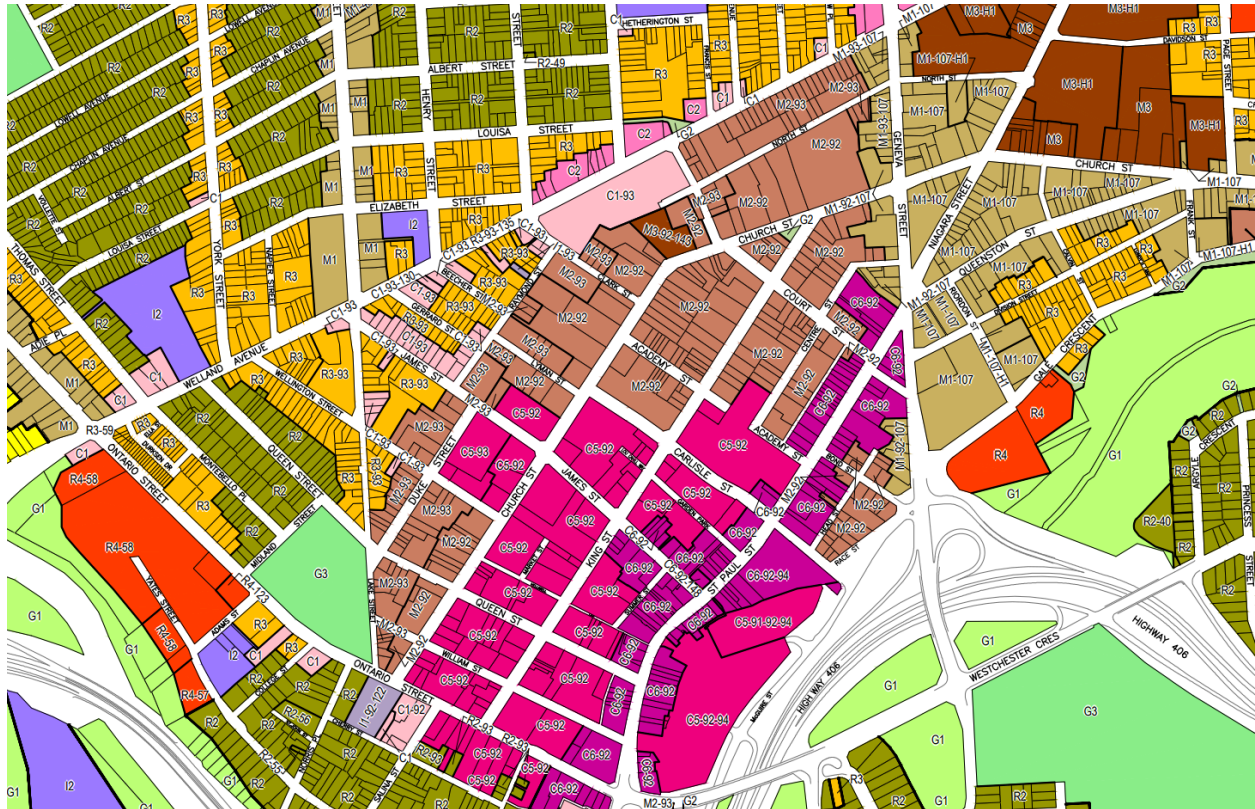


**Figure 7. Example Dwelling Type Illustration**  
Source: Innisfil Zoning By-law 080-13

### 6.2 Permitted Uses

USES	Zones					
Animal Care Establishment	C1	C2	C3	C4	C5	C6
Apartment Building		C2 (b)		C4 (b)	C5	C6 (g)
Car Wash		C2	C3	C4		
Commercial Parking Structure		C2 (h)	C3	C4 (h)	C5 (a)	C6 (a)
Cultural Facility	C1	C2 (h)	C3	C4 (h)	C5	C6
Day Care	C1	C2	C3	C4	C5	C6

**Figure 8. Example of Zone Colour Integration**  
Source: St. Catharines Zoning By-law 2013-283



**Figure 9. Example Coloured Zoning Mapping**  
 Source: St. Catharines Zoning By-law 2013-283

### 3.2 Key Takeaways

The structure and organization of the new Comprehensive Zoning By-law will be further evaluated within Phase 2 of the Study, which will include consideration of how best to lay out and organize the new by-law to make it easy to read and find information.



## 4. General Provisions Report



A General Provisions Report reviewed and evaluated the general provisions sections of the Town of Whitby's three zoning by-laws. Zoning by-law general provisions apply to more than one zone and typically address matters that are consistent across the municipality, such as accessory structures, public uses, etc.

### 4.1 Overview of General Provisions

The general provisions sections of Zoning By-law 1784 and 2585 are extensive and contain a number of provisions that are not addressed in Zoning By-law 5581-05. While many of the provisions are similar across the zoning by-laws, they are sometimes also quite different, some with more succinct and clear wording in one Zoning By-law, compared to a similar provision in another. A review of the Town's existing general provisions and opportunities to update and simplify were considered. Based on this review, the following list includes the existing provisions that are recommended to be brought forward, updated as needed, into the General Provisions section of the new Comprehensive Zoning By-law:

- Public uses
- Excerpted Lands and Buildings
- Lots Having Less Area and/or Depth and/or Frontage
- Frontage on Public Street
- Reduction of Requirements
- Sight Triangles
- Building Repair
- Accessory Uses
- Ten Per Cent (10%) of Every Lot (Landscaping)
- Public Garages
- Swimming Pools
- Accessory Buildings/Structures
- Yard Encroachments Permitted
- Group Homes
- Residential Sales Offices Model Home
- Recreational Propane Sales
- Accessory Apartment
- Home Based Business
- Building Extensions and Repair
- Height Exceptions
- Special Uses Permitted
- Detached Garage and Car Ports
- Existing Uses
- Special Setbacks (Minimum Distance Separation)
- Areas of High Aquifer Vulnerability
- Rapid Infiltration Basins and Columns
- Single Detached Dwelling on a Lot
- Zero Decimal Three (0.3) Metre Reserves
- Standards for Attached Private Garages on Lots Accessed by a Lane
- Standards for Attached Private Garages on Lots Accessed from a Street
- ORM Environmental Protection Zones/Greenbelt
- Holding Zone Provisions
- Roads

A number of the existing provisions are not proposed to be carried forward into the new Comprehensive Zoning By-law, including:

- Greater Restrictions  
Continuation of Farming Uses
- Existing Registered Plans
- Sign Regulations
- Lanes as Yards
- Greenbelt Zones
- Special Exemptions
- Rooms Below Grade
- Satellite Dishes
- Application of By-law
- External Design
- Planned Width of Street Allowance
- Through Lots
- Pits and Quarries
- Boarding and Lodging House Separation Distance
- Oak Ridges Moraine Boundary

A review of the Town's current Official Plan and Secondary Plan policies identified other general provisions that should be considered in the new Zoning By-law including:

- Community gardens, rooftop gardens and farmer's markets
- Certain uses that should be permitted anywhere in the Town, such as public services like police stations
- Provisions related to Service Stations, Gas Bars and Car Washes
- Requirements for development within 75 metres of a railway
- Landscaping or fencing between residential and non-residential uses;
- Screening around outdoor storage
- Permissions for transit stations along Highways
- Provisions related to permitted uses in the Oak Ridges Moraine Secondary Plan

## 4.2 Best Practice Review

The review of other example zoning by-laws also identified additional general provisions that should be considered in the new Zoning By-law including:

- Uses prohibited in all zones;
- Temporary uses;
- Outdoor display and sales areas;
- Number of dwelling units on a lot;
- Drive-through facilities and stacking spaces;
- Bed and Breakfast Establishments; and
- Accessory farm employee accommodations.

### 4.3 Key Takeaways

The existing Whitby zoning by-laws quite comprehensively address general provision matters, though some provisions warrant a more detailed review and potential update. Phase 2 of the Study will include consideration for:

- The most appropriate wording where there are multiple examples of the same provision/intent;
- Any updates or revisions to the provisions being carried forward;
- Confirmation of which provisions identified in other municipal zoning by-laws should be introduced; and
- How the section can best be organized to convey the information clearly and make it easy to find.

## 5. Residential Report



The Residential Report reviewed and evaluated the existing residential zones in the Town of Whitby's zoning by-laws.

### 5.1 Overview of Residential Zones

The Town's three zoning by-laws contain over 45 different parent residential zones that permit a range of different dwelling types.

The existing residential zones in Zoning By-laws 1784 and 2585 permit a wide range of residential uses from single detached dwellings to apartments, with some zones additionally permitting non-residential uses such as golf courses, athletic clubs and public uses and parks. There are many zones that permit only one dwelling type, while other zones permit a number of different dwelling types and outline unique provisions for each dwelling type. In comparison, the three residential zones of Zoning By-law 5581-05 only permit single detached dwellings and/or converted dwellings.

Provisions for residential dwellings across the three zoning by-laws typically include matters of lot, yard and building height requirements. The Town's parent zoning by-laws span a time frame of over 60 years, and ranges in residential zone provisions reflect not only different uses and zone categories, but also the built form trends at the time the zone provisions were introduced into the zoning by-law and the geographic area in which the zone provision applies.

The following provides an overview of the different dwelling types permitted across the three zoning by-laws and the number of parent residential zones each is permitted within (excluding exceptions).

#### Single Detached 29 Zones



Stand-alone building containing one dwelling unit.

#### Semi Detached Dwelling 9 Zones



Two units attached by a common vertical wall.

#### Duplex Dwelling 5 Zones



Two units divided horizontally.

**Semi Detached Duplex**  
6 Zones

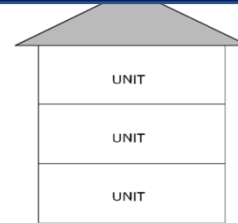
Two attached duplex dwellings with a common wall dividing the pair of duplex dwellings vertically.

**Converted Dwelling**  
12 Zones



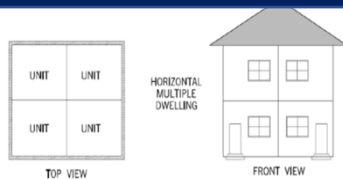
Units added within the outside walls of a building.

**Triplex Dwelling**  
6 Zones



Three units divided horizontally with individual or shared entrances.

**Fourplex Dwelling**  
3 Zones



4 dwelling units with one or more vertical connecting walls.

**Boarding/Lodging House**  
5 Zones

A building where the owner or lessee supplies for compensation (with or without meals) lodging to a boarder(s). May also include an accessory dwelling unit.

**Low Density Cluster Dwelling**  
1 Zone

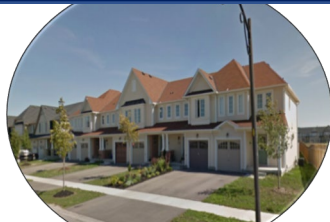
Building or group of buildings on a lot, each group containing a maximum of 4 attached units sharing vehicular access to a public street by an internal roadway

**Linked Dwelling**  
4 Zones



Group of 3 to 8 units attached to the adjacent dwelling by a above or below grade common or connecting wall.

**Street Townhouse**  
9 Zones



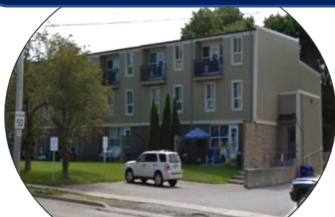
Generally, 3 to 8 individual dwelling units separated by a common wall with frontage on a public street.

**Block Townhouse**  
8 Zones



Generally, 3 to 8 units separated by a common wall with shared private driveway access.

**Maisonette Dwelling House**  
1 Zone



Typically, 3 storeys. Units closest to grade are 2 storey units with exterior or interior access. 3<sup>rd</sup> storey unit is typically 1 storey, with access from an interior corridor.

**Back to Back Townhouse**  
2 Zones



Generally, 6 to 16 units divided vertically, including a common rear wall.

**Stacked Townhouse**  
6 Zones



4 or more units, each which has a vertical and horizontal common wall.

**Retirement Home**  
8 Zones



A building containing units where facilities/services are provided for food preparation/consumption, housekeeping and medical needs.

**Long Term Care Facility**  
3 Zones



Licensed building containing accommodation where a range of personal care, support and health services are provided in a supervised setting.

**Apartment**  
9 Zones



A building with 4 or more units that share a common external access to the outside through a common vestibule and corridor system.

## 5.2 Lot Area, Frontage and Coverage Analysis

An analysis was undertaken using parcel and building GIS data to examine trends in lot sizes, frontage and coverage in Whitby’s residential zones in order to understand where existing built form differs from the permitted zoning requirements and if these existing characteristics need to be recognized in zoning provisions.

### 5.2.1. Lot Area

The area of lots within Whitby’s existing residential zones range from smaller than 200m<sup>2</sup> to more than 1,000m<sup>2</sup>. Within different residential pockets of the Town, lot areas tend to be similar in size but differ from other areas. For example:

- There are large lots along Garrard Road and west of Thickson Road North, between Rossland Road East and Dundas Street East.

- The area around Anderson Street and Rossland Road East is generally made up of lots in the 500-700m<sup>2</sup> range.
- Southwest of Gordon Street and Victoria Street West, the lot areas are generally in the 200-400m<sup>2</sup> range.
- Residential lot sizes in the Hamlets north of the Brooklin Secondary Plan area are generally greater than 1,000m<sup>2</sup>, which is not surprising given the unserviced nature of the hamlets.
- The residential areas around Whitby's Downtown area have a mix of lot sizes, which differs from the homogeneity of the planned residential communities found in many other parts of the Town.

### 5.2.2. Lot Frontage

Existing residential lot frontage was examined based on information provided by the Municipal Property Assessment Corporation (MPAC), although there are some areas where frontage data is not available. To an even greater extent than with the lot area, there are many pockets with similar lot frontages. For example:

- In the area around Anderson Street, between Dundas Street East and Dryden Boulevard, lot frontages are predominantly in the 15-18m range.
- In Brooklin, along Queen Street and in the area south of Vipond Road, east of Ferguson Avenue and northwest of Heber Down Crescent, lot frontages are predominantly in the 21 – 30m range.
- As the Hamlets generally have larger lots, their frontages also fall within the largest size category within the Town. The frontages for these areas are generally 30m and above.
- Similar to lot area, residentially zoned lots within the Downtown vary in lot frontages as well and lack the homogeneity noted in some other areas of the Town.

### 5.2.3. Lot Coverage

Lot coverage analysis was prepared based on available building polygon and lot data. Based on a high-level analysis:

- Coverage in Whitby's residential areas varies, though most fall under 50% coverage.
- Within the Hamlet areas north of Brooklin, residential lot coverage generally ranges up to 20%.
- Within Whitby's residential areas south of Brooklin, lot coverage generally ranges from 10% to 50%.

- Certain areas within the Town have a lower residential lot coverage, predominantly 10% to 30%. This includes residential areas:
  - Around the Downtown area;
  - Along Garrard Road and Thicksen Road North between Rossland Road East and Dundas Street East; and
  - Within the areas around Anderson Street and Rossland Road East.
- Other residential areas have lot coverages between 20% to 50%, generally located west of Thicksen Road, between Taunton Road and Rossland Road East.
- In the areas south west of Taunton Road West and Cochrane, greater lot coverage is present, many having a 50% or higher lot coverage.

### 5.3 Key Takeaways

The residential zones of the new Comprehensive Zoning By-law will be further evaluated within Phase 2 of the Study, including consideration for:

- An update/consolidation of dwelling types, terminology and definitions to ensure clarity and consistency;
- Consistent formats and measurements across all zones (for example, storeys vs. metres or m<sup>2</sup> vs. hectares);
- Removal of unserviced lot requirements in serviced areas;
- Similar provisions for the same use across the zoning by-laws, such as single detached dwellings on similar sized lots, which could be consolidated;
- The modernization of terms and uses, including:
  - The relevance of antiquated terms such as low density cluster dwellings and maisonette dwelling houses, which are currently only permitted in one zone, as well as link dwellings, semi detached duplex dwellings and converted dwellings;
  - Incorporating current housing types, such as back to back townhouses, back to back stacked dwellings and stacked townhouses; and
- Ensuring the zoning by-law conforms to the Official Plan and Secondary Plan policies.



## 6. Commercial Report



The Commercial Report reviewed and evaluated the existing parent commercial zones in the Town of Whitby's zoning by-laws.

### 6.1 Overview of Commercial Zones

There are 28 different parent commercial zones across the Town's three zoning by-laws that permit a range of different commercial uses that can be organised into six general categories:

- Local Commercial/Shopping Centre Zones;
- Highway Commercial Zones;
- Central Commercial Zones;
- Central Area Commercial Zones;
- Special Purpose Commercial Zones; and
- Automobile Related Zones.

From the analysis of the zones in the three different zoning by-laws, the following findings were determined:

- The permitted uses of the Local Commercial/Shopping Centre (C1) Zones are very similar across the zoning by-laws but the permitted uses for the Highway Commercial (C2) Zones are very different across the zoning by-laws;
- Of the Central Commercial Zones, the C3 and C3-DT have similar permitted uses, but the C3 Zone only applies in one small location;
- The Special Purpose Commercial (C2-S) Zones from Zoning By-law 1784 and 2585 are almost the same, and could be combined;
- Special Purpose Commercial – Commercial Node (C2-S-CN) Zone only permits one use and applies to a small area;
- The Central Area Commercial Zones (CAC) zones are similar in permitted uses but vary in the provisions. Each zone applies to one specific area. An alternative would be to address these distinct zones through site specific exceptions;
- Further consideration is warranted as to whether the automobile-related zones require their own zone(s); and
- Automobile Station (AS) zone in Zoning By-law 2585 does not apply anywhere.

## 6.2 Key Takeaways

The commercial zones of the new Comprehensive Zoning By-law will be further evaluated within Phase 2 of the Study, including consideration for:

- A need for an update of terminology to ensure clarity, modernizing terms and making sure use of terms are consistent (for example using restaurant vs. eating establishment);
- Opportunities to reduce the number of zones due to existing overlap in permitted uses;
- Whether the automobile-related zones warrant their own zone(s), with further analysis required to determine how best to treat these uses;
- Where the zoning on a property might be better addressed through a site specific exception instead of as a unique zone; and
- Ensuring the zoning by-law conforms to the Official Plan and Secondary Plan policies.

## 7. Mixed Use Report



The Mixed Use Report reviewed and evaluated the existing mixed use zones in the Town of Whitby's zoning by-laws. This report also included discussion sections regarding intensification and cultural heritage.

### 7.1 Overview of Mixed Use Zones

There are six different parent mixed use zones across Zoning By-law 1784 and 2585 as shown in **Figure 10**.

Except for the MUR-VB Zone in Downtown Brooklin, the Town's mixed use zones all permit a broad range of mid- to high-density residential and non-residential uses (i.e., commercial, institutional, accessory uses, etc.). Depending on the zone, residential uses are generally either permitted as a stand-alone use or only permitted in conjunction with non-residential uses on the same lot or within the same building.

Provisions for mixed uses across the three zoning by-laws typically include matters of lot, frontage and depth; front, side and rear yard setbacks; landscaped open space and maximum height. A few of the zones address lot coverage, maximum floor space index, minimum gross floor area and other additional provisions such as separation distances between buildings, number of dwellings on a lot, required outdoor amenity space, podium and 45 degree angle requirements, and density requirements, among others.

Many of the Town's mixed use zones, apart from the zones in West Whitby, are 20 to 30 years old and do not address the contemporary built form regulations other zoning by-laws include such as minimum building heights; amenity space requirements; and tower requirements relating to podium height, step-backs and separation distances. The Town's mixed use zones will undergo significant review in Phase 2 in order to determine which types of new provisions are appropriate to regulate in the context of the Town.

As this Study progresses, further consideration is needed on how much of the intensification areas and corridors should be pre-zoned in alignment with the Official Plan permissions. Pre-zoning areas for the ultimate desired form can increase housing supply and reduce barriers to development. Conversely, some areas, particularly where more intense development is proposed adjacent to lower-rise development, may warrant site specific examination. This examination occurs through a development review process where a zoning by-law amendment is required. Thus there may be some benefit to limiting the zoning permissions on certain sites so that development can be reviewed through a development application. This will be further examined in Phase 2 of the Study.

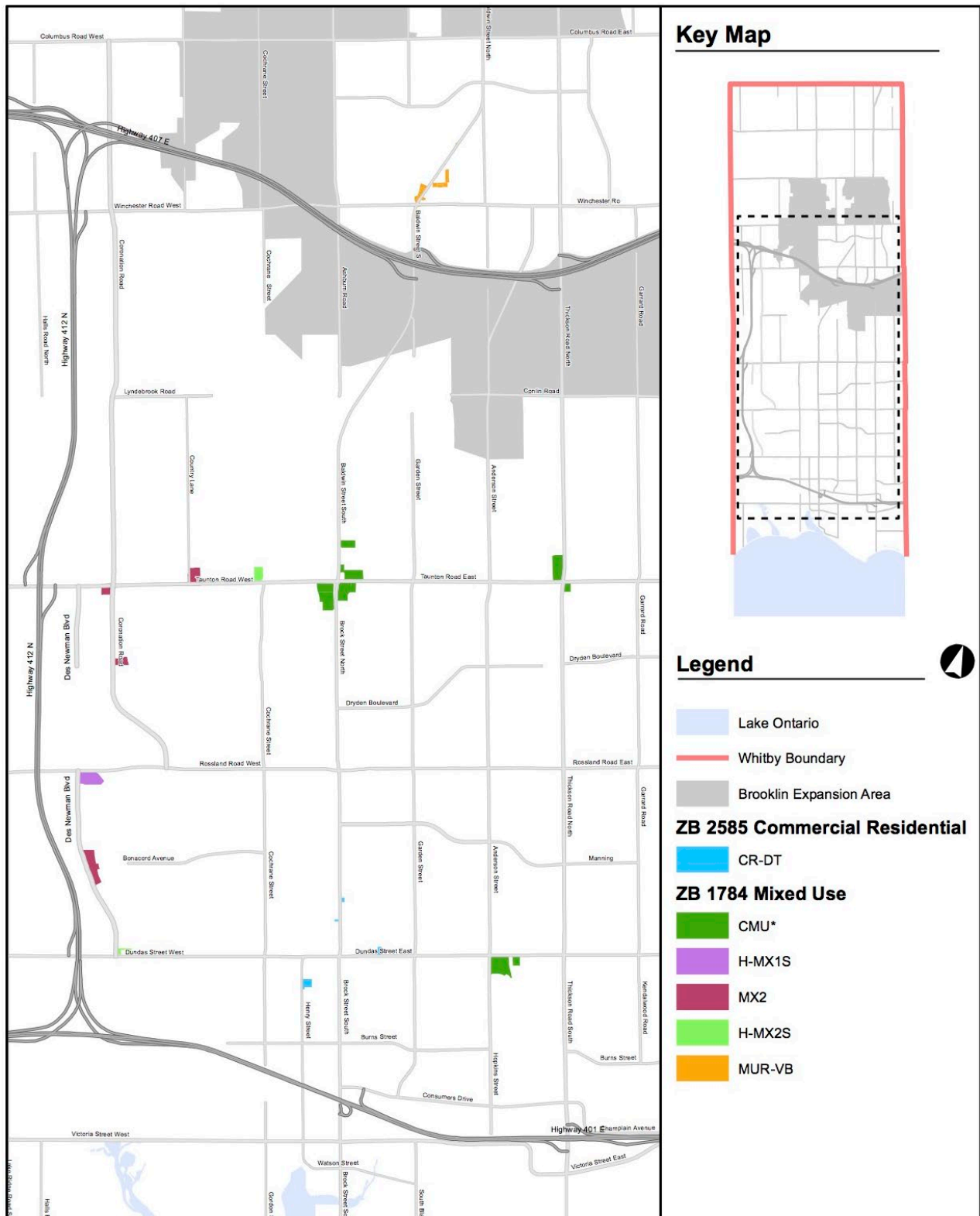


Figure 10. Location of Whitby’s Mixed Use Zones

There are two Cultural Heritage District Plans that apply in Whitby, the Brooklin Heritage Conservation District Plan and the Heritage Conservation District Plan for Werden's Plan Neighbourhood. As the Study progresses, consultation with the appropriate heritage experts at the Town will occur to ensure the new Comprehensive Zoning By-law does not conflict with the intent of any of these existing Heritage Conservation Districts or any other new ones.

## 7.2 Key Takeaways

The mixed use zones, as well as zoning related to cultural heritage and intensification corridors and areas of the new Comprehensive Zoning By-law will be further evaluated within Phase 2 of the Study, including consideration for:

- How zone requirements can be simplified by addressing groups of similar uses;
- When a mix of uses is required within a building, on a lot or within an area;
- Ensuring the desire for mixed use in the Official Plan is appropriately translated into the zoning requirements;
- The extent to which the zoning encourages density in areas planned for intensification; and
- How the zoning can support preservation of the Town's heritage conservation districts.

## 8. Employment Report



The Employment Report reviewed and evaluated the existing employment (industrial) zones in the Town of Whitby's zoning by-laws.

### 8.1 Overview of Employment Zones

There are 11 different employment zones contained within Zoning By-laws 1784 and 2585. Whitby's employment zones are predominantly located in the southeast area of the Town, generally centered around Highway 401 and Thickson Road South, though some areas exist elsewhere, such as in West Whitby and in the Brooklin area. From the review of the employment zones, neither the zone titles, such as "Restricted Industrial" or "Prestige Industrial" nor the zone code "M1" or "M1A" or "M2" are necessarily comparable amongst the zoning by-laws. Other than for the M1 and M2 zones where the permitted uses are almost the same, there is quite a bit of variability in the permitted uses between the different zones.

The review generally identified two categories of employment zones, general industrial and prestige industrial. Seven of the zones permit industrial type uses, including the general term "industrial uses", fabricating/processing plants and manufacturing uses. Some of these zones also permit open storage and warehouse uses. There are three Prestige zones, all in Zoning By-law 1784, which permit offices and ranges of uses more often seen in prestige areas, like research and development or places of entertainment.

Other findings from the review of the zones include that the MH Zone and M1-BP Zone have limited application and Zoning By-law 2585 has two zones that are only applied in site specifics.

From the best practice review of other zoning by-laws, there was a trend identified of having both a Prestige/Business and a General Zone.

### 8.2 Key Takeaways

The employment zones of the new Comprehensive Zoning By-law will be further evaluated within Phase 2 of the Study, including consideration for:

- Ensuring consistent terminology of permitted uses across the zones;
- Appropriate separation of certain industrial uses to sensitive uses, like homes or schools;

- Ensuring the zoning by-law conforms to the Official Plan and Secondary Plan policies; and
- A reduction in the overall number of zones, possibility with a focus on Prestige/Business vs. General Industrial uses.

## 9. Other Zones Report



The Other Zones Report reviewed and evaluated the remaining zones in the Town of Whitby's zoning by-laws. The zones evaluated include:

- Agricultural Zones;
- Cemetery Zones;
- Development Zones;
- Institutional Zones;
- Natural Heritage and Hazards Zones; and
- Open Space Zones.

### 9.1 Agricultural and Agricultural Service Zones

#### 9.1.1. Overview

Zoning By-law 1784 and 5581-05 each contain an Agricultural Zone (A) and Agricultural Service Zone (A1), with similar permitted uses that focus on agriculture, conservation and fish, wildlife, forestry management. The provisions for the Agricultural Zones across both zoning by-laws are exactly the same, while provisions for the two Agricultural Service Zones differ for each zoning by-law and from the Agricultural Zones.

Key takeaways from the review of the Agricultural Zones includes:

- Consideration for combining Zoning By-laws 1784 and 5581-05's Agricultural (A and ORM-A) Zones, subject to ensuring conformity with the Oak Ridges Moraine Secondary Plan policies;
- The A1 Zones in Zoning By-laws 1784 and 5581-05 could be deleted and the two areas rezoned to reflect that they are not in the Agricultural designation, but rather in the Brooklin Community and Hamlet of Ashburn, respectively;
- Better alignment between the Agricultural Official Plan designation and Agricultural (A) Zone is needed, particularly as it relates to permitted uses;
- Agricultural zoned properties in the Urban Area should be re-zoned in order to implement the policies of the Official Plan; and
- Consideration should be given towards implementing a "rural residential" type zone for small non-agricultural properties located outside of the Urban Area that are entirely residential.



## 9.2 Cemetery Zones

### 9.2.1. Overview

There are two cemetery zones in Whitby's zoning by-laws. The permitted uses in Zoning By-law 1784's (CE) and Zoning By-law 2585's (G) Zones are almost the same except that Zoning By-law 1784's CE zone includes a number of additional cemetery-related uses not found within Zoning By-law 2585's G Zone.

Key takeaways from the review of the Cemetery Zones includes:

- Zoning By-laws 1784 and 2585's cemetery zones could be combined into an institutional zone; and
- There are a number of existing cemeteries that are in Agricultural or Residential Zones which should be rezoned to a cemetery or institutional zone.

## 9.3 Development Zones

Both Zoning By-law 1784 and 2585 include Development Zones. In Zoning By-law 1784, it is contained under the title Brooklin Secondary Plan – Development (D) Zone. Both zones include sub-categories D(R) - residential and D(NR) – non-residential. Typically development zones are located in urban areas and are intended to act as a form of holding zone for the future development of land. There is an opportunity to combine these zones.

## 9.4 Institutional Zones

The three zoning by-laws contain a total of 8 Institutional Zones. Many of the zones permit similar uses with some permitting a more diverse list of uses. The provisions vary quite differently across the Institutional Zones, however there are some similar zones. There is opportunity to combine these zones into one zone or two zones that differentiate between scales of facilities.

## 9.5 Natural Heritage and Hazard Zones

Zoning By-laws 1784, 2585 and 5581-05 all contain Natural Heritage Zones. Zoning By-law 1784 contains the Greenbelt (G) Zone, Zoning By-law 2585 contains the Flood (F) Zone and Zoning By-law 5581-05 contains an Oak Ridges Moraine Natural Linkage Areas (ORM-NLA) Zone and an Oak Ridges Moraine Environmental Protection (ORM-EP) Zone.

Key takeaways from the review of the Natural Heritage and Hazard Zones include:

- Areas designated natural heritage should be zoned in a specific zone that enables natural heritage protection, instead of being zoned agricultural or open space due to the broader range of uses permitted;
- Further consideration is needed regarding how natural features versus natural hazards are treated in the new Comprehensive Zoning By-law. It is also noted that Official Plan Policy 5.3.10.2 requires hazards to be zoned;
- Where Greenbelt zones occur in the Urban Area, permission for some uses are problematic, such as agricultural uses;
- The G Zone should be updated to not permit agricultural uses in an area designated for heritage feature protection; and
- Large areas of the Town have never been zoned to recognize natural hazards and natural heritage which are designated in the Official Plan.

## 9.6 Open Space Zones

The three zoning by-laws contain a total of 5 Open Space Zones. The Open Space Zones could be collapsed into one zone, with site specific or area exceptions such as required limitations on buildings in the Oak Ridges Moraine.

## 9.7 Key Takeaways

The other zones of the new Comprehensive Zoning By-law will be further evaluated within Phase 2 of the Study, which will involve consideration for:

- Combination of similar zone permissions and provisions;
- Better alignment between the zones and the Official Plan and Secondary Plan designations;
- The rezoning of agricultural zoned properties in the Urban Area;
- Updating the zone mapping to include existing natural heritage features, such as woodlots and stream corridors;
- Implementing a “rural residential” type zone for small non-agricultural properties outside the Urban Area; and
- An overall clearer distinction in the zoning between:
  - Lands where the intent is the protection and promotion of agriculture; vs.
  - Lands where the intent is natural heritage protection, though some passive recreation may continue or support the conservation of the land; vs.
  - Lands where recreation is the intent.

## 10. Site Specific Exceptions Report



The Site Specific Exceptions Report reviewed and evaluated the site specific exceptions in the Town of Whitby's zoning by-laws, as well as provided a high level summary of the key and recurring elements including permitted uses and provisions.

### 10.1 Overview of Site Specific Exceptions

Site specific exceptions are additional zoning requirements, or relief from certain zoning requirements, that that apply to a specific property or groups of properties. These are introduced to the zoning by-law after an application for a zoning by-law amendment is made. If approved, the new rules for that specific area are recorded as a site specific exception in the zoning by-law. The site specific exceptions are organized in two different ways across the Town's three zoning by-laws:

- As a list at the end of each zone category section; and
- In a single "exception" section, ordered by date, not zone, at the end of the zoning by-law.

There are more than 500 pages of site specific exceptions within the separate "exceptions" section of Zoning By-law 1784, likely owing to the age of the zoning by-law, and almost 240 pages within two different "exceptions" sections of Zoning By-law 2585. In comparison, Zoning By-law 5581-05 only lists site specific exceptions at the end of each zone section where applicable.

### 10.2 Key Takeaways

The site specific exceptions of the new Comprehensive Zoning By-law will be further evaluated within Phase 2 of the Study, including consideration for:

- Where site specific exceptions should be located within the by-law;
- Introduction of a clear and consistent labeling system for the site specific exceptions;
- How to approach the mapping of exceptions in the zoning by-law maps, and whether the exceptions should be included on the same maps as the parent zones, or on separate maps;
- The removal of definitions from the site specific exceptions and including them in the definitions sections;

- Additional uses or lot provisions that can be permitted as-of-right within parent zones in order to reduce the number of site specific exceptions needed; and
- Opportunities to make the zoning by-law more flexible to reduce the number of site specific amendments.

### **10.3 Proposed Process for Review of Site Specific Exceptions**

The detailed review of Whitby's site specific exceptions will include deleting those that are no longer relevant as well as deleting any site specific exceptions that have been repealed or any temporary uses that have expired. In addition, wherever possible, the content of site specific exceptions will be reduced. Once the new parent zoning provisions are created, some of the site specific exceptions may become obsolete as their permissions may be permitted as-of-right under the new zoning. Thus, each exception will be reviewed against the final zoning to carry forward only the portions of the existing exception that are needed. As a result, the review of site-specific exceptions will need to occur once the new Comprehensive Zoning By-law is in its final draft.

In order to undertake the review, each of the site specific exceptions will be mapped so that the existing exception can be compared to the new zone. Overlapping site specific exceptions will also be identified. A challenging component of this process will be reviewing the complicated site specific exceptions which contain amending provisions for multiple zones. Further consideration in Phase 2 will consider how best to address these larger, complicated site specific exceptions.

## 11. Definitions Report



The Definitions Report reviewed each of the definitions in the three zoning by-laws to identify duplications and potential refinement of the terms for clarity and understanding.

### 11.1 Overview of Existing Definitions

The analysis consisted of a comparison of the definitions in Whitby's three Zoning By-laws. The following considerations were used to review the definitions and prepare recommendations:

- Common terms do not need to be defined, especially where a typical dictionary definition appropriately captures the intent;
- The definitions should be easy to read and understand;
- Terms that are no longer relevant can be deleted;
- Simplicity and flexibility can be achieved by not over defining uses, for example, convenience store, shoe store and clothing store can be captured by the "retail store" definition;
- Definitions should not regulate a matter or contain numerical regulations; and
- Definitions should not be located in site specific exceptions; they should apply comprehensively in the by-law.

Based on the review, each definition was categorized into one of the following recommendations:

- **Carry Forward:** One of the existing definitions is to be brought forward into the new zoning by-law.
- **Carry Forward with Edits:** One of the existing definitions is to be brought forward, with some revisions required.
- **Consider Further:** The need for the definition or further review of the appropriate wording of the definition will be considered in more detail in Phase 2 of this Study.
- **Delete:** The definition is no longer needed and is recommended to be deleted.

## 11.2 Key Takeaways

In total:

- Approximately 120 definitions are proposed to be Carried Forward;
- Approximately 50 definitions are proposed to be Carried Forward with Edits;
- Approximately 80 definitions will be Considered Further; and
- Approximately 90 definitions will be Deleted.

These recommendations form only initial analysis of appropriate definitions. As the project moves forward, this list of definitions will shift to align with those required to interpret the by-law as it is written, ensuring that new definitions are added, as needed, and those not used in the by-law are deleted. As the study considers the uses and provisions required in the new Comprehensive Zoning By-law, in Phase 2 of the Study, other additional definitions may be identified or the recommended definitions further refined. In addition, as part of Phase 2, a best practice review of how other municipalities' address definitions will occur.

## 12. Parking Provisions Report



The Parking Provisions Report reviewed and evaluated the parking provisions in the Town of Whitby's zoning by-laws, focusing on particular issues identified through discussions with the Town.

### 12.1 Overview of Existing Parking Provisions

Both Zoning By-law 1784 and 2585 have recently updated parking sections, stemming from a study the Town undertook from 2008 to 2014 which informed new recommended standards to ensure consistency throughout the municipality. The only difference between the parking provisions of Zoning By-law 1784 and Zoning By-law 2585 is that Zoning By-law 1784 additionally addresses agricultural areas. The parking provisions in Zoning By-law 5581-05 were not updated as part of the same process and are not as comprehensive as the other two Zoning By-laws.

The organization of the parking provisions also differs across the by-laws, with Zoning By-law 1784 and Zoning By-law 2585 each having an independent Parking and Loading Requirement section, whereas Zoning By-law 5581-05 has the parking provisions contained within the General Provision section of the zoning by-law.

### 12.2 Key Takeaways

Because of the recent work undertaken by the Town on parking, the Phase 1 report, using a best practice review, examined only specific issues which the Town requested be reviewed further. The findings of the analysis of these issues, included the following:

- Other zoning by-laws enforce parking on driveways in a similar manner that Whitby does;
- The minimum parking space dimension size for low density residential parking could be reduced to 2.6 metres in width as opposed to 2.75 metres, where two vehicles are parked side by side on a driveway;
- There is precedent seen in other zoning by-laws for reducing the minimum size of garages, although this reduction must be balanced against the ability to access cars and provide storage in a garage;
- No changes are recommended to the parking rate for accessory apartments.
- No increase to the size of parking for commercial vehicles is recommended, Whitby's standards align with the largest of permissions contained in other municipalities;

- A reduction in apartment parking rates from 1.25 spaces per unit plus 0.25 per unit for visitors can be considered as seen in Oakville and Welland. An alternate option is to reduce the parking rate for apartments in key areas, like the Downtowns and in proximity to the GO Station, or to address parking space requirements by unit size or number of bedrooms;
- A parking rate for stacked townhouses should apply across all of Whitby;
- Whitby is one of the only municipalities reviewed that calculates accessible parking based on visitor parking only and not overall parking on site. Phase 2 will look at whether this rate should be broadened to requiring accessible parking spaces as a portion of the residential parking spaces as well, not just the visitor parking;
- A bicycle parking rate could be included in the new Comprehensive Zoning By-law for certain land uses, including high density residential, as is standard in other zoning by-laws;
- Shared parking should be considered in the Downtown, in line with the parking rates seen in the example municipalities;
- There is precedent in other municipalities for reducing the restaurant parking requirement in downtown areas that may be appropriate for Whitby; and
- Staff would like to consider reducing the current office parking rate of 1 per 30 square metres. This approach was not typically found in the example by-laws reviewed, although it may be appropriate for the Downtown.



## 13. Next Steps



The purpose of this Issues Identification Report was to provide a summary of the research and analysis conducted within Phase 1 of the Study, and to highlight the key topics that must be considered in the development of the new Comprehensive Zoning By-law.

Zoning in Whitby is regulated by three different zoning by-laws. From the background work completed in Phase 1, overarching issues with this approach and in these by-laws include:

- Inconsistency in regulations and terminology between the three zoning by-laws;
- Instances of outdated provisions and regulations, and terminology, owing, in part, to the age of the zoning by-laws;
- An unnecessary number of zones;
- Organizational issues, including that site specific exceptions are located within different sections of the by-laws and some definitions are located outside of the definitions section;
- Select instances of conformity with the Official Plan; and
- Incomplete mapping of site specific exceptions.

Collectively, the existing status of the zoning by-laws in Whitby presents an opportunity, through this Study process, to develop a single new Comprehensive Zoning by-law, which streamlines, consolidates, organizes and modernizes the existing regulations while having regard to fixing the specific issues identified in this report and its predecessors.

In Phase 2 of the Study, the information prepared within this report and in the other Phase 1 reports of this Study will be used to provide recommended courses of action for the content and organization of the provisions in the new Comprehensive By-law.

