

TO: MAYOR R. N. BENTLEY AND MEMBERS OF COUNCIL

DATE: November 19, 2018

SUBJECT: **21-23 Main St E, 6 Doran - Century Condos Public Meeting – Nov. 13, 2018**

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At the November 13, 2018 Public Meeting on this development I presented a number of questions as detailed below with a few further additions for the public record. The information below has also been provided to the Planning & Development Committee.

As such, I would respectfully ask that this correspondence also be included in the agenda and public record for the November 19<sup>th</sup> Council meeting and that Council be inclusive of having regard to these when formulating their decision on this application.

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Thank you for the opportunity to present comments on this proposed development and related Official Plan Amendment and Zoning Bylaw Amendment.

I would like to raise the following questions and comments for consideration:

### **25 Main Street East**

25 Main Street East was referenced in the original application submission as an included parcel. 25 Main St E was the former site of the Roxy theatre and in the ZBL as Site-Specific Exception 226.

*Question: Why is it not referenced in the Town's report and in the draft OPA and ZBA?*

### **Title and Ownership of Laneway**

The 2008 approved Site-Specific Exception 226 and planning report for 25 Main St E and Doran Ave state that:

*"[...] the two lots are separated by the public laneway and cannot therefore be merged". The zoning by-law does provide for exemptions with the approval of Council by resolution and subject to an agreement. The proposal is appropriate. The authorizing resolution should be included with the approval of this application and the agreement will be addressed following the site plan review with the registration of the site plan agreement, which will functionally tie the two properties together."*

*Question: Has the issue of title and ownership of the laneway been legally determined?*

## **Merging of Development Blocks**

The Official Plan states:

### **“3.5.6.1 Street Grid/Development Blocks**

a) The Downtown District in general includes a fine-grained street system. The existing street system provides the organizing framework for *development*. In addition, the grid of streets establishes the size of *development* blocks.

b) In a general sense, the size of blocks in the Downtown District is much finer grained than in a suburban context. The finer grain of streets and blocks facilitates redevelopment opportunities. As such, the existing street and *development* block pattern shall be maintained and, where appropriate, expanded. **Public road right-of-ways shall not be closed or sold to establish larger *development* blocks.”**

The proposed merging of properties appears to be in direct conflict with the wording and intent of this provision.

If the intent is to retain the Main Street East heritage character and established blocks of lots, clearly delineating the Main St E commercial buildings from the rear residential lots facing Doran, selling the public laneway right-of-way to merge commercial and residential lots to create a larger development block would not follow the intent of the OP.

## **Notice of Public Meeting**

The October 23, 2018 notice circulated for the November 13, 2018 Public Meeting contained the wording:

*“The original proposal incorporated a municipal laneway which extends from Ontario Street and traverses the subject property, ending at the easterly lot line. The laneway was to be incorporated through the ground floor of the parking garage and provide a new connection to Doran Avenue. The revised plan no longer proposes to extend the laneway connection through to Doran Avenue. **The laneway is now proposed to terminate at the westerly portion (rather than the easterly portion) of the subject property. The decision to terminate the municipal laneway at this location will be at the discretion of the Town of Grimsby.”***

At that meeting, the Deputy Director of Planning made a PowerPoint presentation that stated “Internally staff conclude that closure and sale of the lane is appropriate.” Mr. Ariens in the same meeting stated that the developer had rethought this and was now moving forward with extending the laneway through the building to Doran.

The developer's constantly changing proposal on laneway access is a critical element of the design, parking and traffic impacts. It is important that this be determined and communicated clearly to provide the public with full disclosure of the intent as required under the Planning Act s.34, 12(a)(i).

### **Timing of A Complete Application**

The Official Plan states:

“9.12.2 All of the matters set out in Section 9.12.1 **must be completed to the satisfaction of the Town prior to the Town accepting the application as complete.** The Town may require a peer review by a qualified consultant of any of the studies required in Section 9.12.3 or 9.12.4. The Town will retain the peer reviewer at the applicant's expense through a fees agreement as per Section 9.12.1(e).”

Considering that the May 2018 re-submission for 4 storeys was a significant design and material change from the original 8-storey application and lot configuration, it would have required amended studies and supporting materials under the Official Plan for a complete application.

As the heritage study provided by the applicant has not been completed to the satisfaction of the Town and the peer review identified that it was missing critical commentary on scale and massing. This should not be deemed a complete application.

### **Parking Study**

As I raised at the first Open House, the Crozier parking study did not use appropriate data and should have been peer reviewed. The revised parking study submitted for the re-submission repeats these errors and erroneous statistical data was selected, resulting in an under-reporting of required parking.

Similar issues of the validity of Crozier parking studies were raised and reported by Town Planning Staff in their report presented at the 13 Windward Drive Corporate Centre Public Meeting, another property owned by the applicant.

Developers should be ensuring that submitted studies follow appropriate standards to ensure data is not under-reported. Town Planning Staff should not have to be put in a position where they manufacture solutions in light of parking/traffic studies that are incorrectly applied or completed.

### **Access to Commercial/Restaurant Parking Spaces and Directional Signage for Patrons of these Establishments**

Mr. Ariens, in his presentation, stated that all in-building surface parking (including visitor, restaurant and commercial) would be shared. Then he retracted this statement

and said that the 8 restaurant and 7 commercial spaces (reduced further in the ZBA to allow for laneway access) would be dedicated.

- Questions: 1. What signage will be put up to direct patrons to the rear of Doran/Ontario to access the restaurant/commercial parking?*
- 2. How will people be directed to go into the private building entrance to access these public parking spaces?*
- 3. How will these 15 spaces be protected for patron use (and employees of these establishments) and not used by condo residents/visitors?*

### **Errors and Omissions in Draft Site Specific Zoning By-law (Attachment B)**

All lots including the laneway (lot 312, 313, 315, 316 and 317) being merged together should be included as per Recommendation #4.

The current draft wording of the Site Specific Exception 226 in Attachment B is, "Address: Lots 312, 315, 316 & 317 Corporation Plan No. 4 – 23 Main Street, Town of Grimsby".

The draft Zoning By-Law is deficient of a Site Specific Exception statement, as discussed in the SGL report. The statement to be added to Table A is:

***"Parking lot to property line of abutting residential zone - 0.14m"***

Additionally, this reduced setback of 0.14m from a residential zone is not appropriate. It is wholly incompatible with minimum privacy and overlook expectations for a residential property owner (4 Doran) and significantly negatively impacts their enjoyment of their personal backyard amenity space.

It is important that the wording of the ZBA is complete and accurate as per the legal requirements of the Planning Act before being approved in any manner.

### **Applicant's Changes/Additions to Zoning By-law Amendment**

At the public meeting, Mr. Ariens proceeded to hand out additional wording changes to the draft ZBA to Committee members. This information was not disclosed beforehand, not shared with the public nor was it included in any of the reports.

He noted that there were a few additions, one being a change to the height of the loading space. Bringing forward additional Zoning By-Law changes at the meeting without notice and full disclosure to the public is not appropriate.

The Planning Act clearly states:

“Further notice

(17) Where a change is made in a proposed by-law after the holding of the public meeting mentioned in subclause (12) (a) (ii), the council shall determine whether any further notice is to be given in respect of the proposed by-law and the determination of the council as to the giving of further notice is final and not subject to review in any court irrespective of the extent of the change made in the proposed by-law. R.S.O. 1990, c. P.13, s. 34 (17); 2006, c. 23, s. 15 (9).”

### **Heritage Plaque**

No mention was made of a requirement for the developer to install a Heritage Plaque. This important historical property, the former site of the Roxy Theatre/Jersey Theatre, is undeniably part of the Town’s history. As has been practiced with recent developments where there is a historical connection, a Heritage Plaque should be a mandatory requirement noted at site plan stage.

### **No Provision for Approving an Official Plan Amendment or Zoning By-law Amendment “in Principle”**

*“2) That the proposed application for Zoning By-law Amendment at 21-23 Main Street East and 6 Doran Road be approved in principle and that the reading of the by-law attached as Attachment B to the peer review occur once recommendations 3 and 4 are met.”*

The above motion and recommendation passed to approve the ZBA “in principle” has no legal basis or weight under the Planning Act. The By-Law still requires revision and correction, and therefore, no “approval in principle” should be invoked.

**Question: What would be the purpose of approving the ZBL “in principle” if no action can be taken on it as it currently exists?**

### **SUMMARY**

The Town Manager and the Deputy Director of Planning, by way of the latter’s presentation to the Committee recommended that the report (PA 18-32), including the SGL peer review, “just be received as information” by the Committee at this meeting.

Committee members defeated an amending motion in that regard and carried the original motion approving the recommendations contained in that report, including the OPA and ZBA “in principle” as attached to the SGL peer review.

This raises serious questions as to why Committee members would overrule not only the recommendation of the Town Manager, but overrule the Town's own Planning Staff over a report submitted by them and requested only to be received as information.

Respectfully submitted,

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