
From: Finnerty, Chrisanne
Sent: December-05-16 4:57 PM
To: Moor, Linda
Subject: FW: Robert Forrest's letter to the Mayor and Councillors of Newmarket dated 28 November 2016
Attachments: forrest report.pdf; ATT00001.htm

From: Shelton, Bob
Sent: December-05-16 1:34 PM
To: Armchuk, Esther
Cc: Finnerty, Chrisanne
Subject: Fwd: Robert Forrest's letter to the Mayor and Councillors of Newmarket dated 28 November 2016

Sent from my iPhone

Begin forwarded message:

From: Shrink Slessor Square <_____
Date: December 5, 2016 at 10:40:14 AM EST
To: Bob Shelton <_____, Bob Shelton
Subject: Fwd: Robert Forrest's letter to the Mayor and Councillors of Newmarket dated 28 November 2016

Dear Mr Shelton

I am forwarding a email I sent to the Mayor and councillors last night. It is self explanatory.

I have put in for a deputation with Gerald Fox for this evening's Council meeting.

I hope everything is in order.

Yours sincerely

Gordon Prentice

Sent from my iPad

Begin forwarded message:

From: Gordon Prentice <_____
Date: December 4, 2016 at 8:31:14 PM EST
To: Tony Van Bynen <_____, John Taylor
<_____, Tom Vegh <_____
>, Jane Twinney <_____, Dave Kerwin
>, Tom

Hempen <"

>, " _____
a>, Christina Bisanz <

Subject: Robert Forrest's letter to the Mayor and Councillors of Newmarket dated 28 November 2016

Reply-To: Gordon Prentice

Dear Mr Mayor

Robert Forrest's letter to you of November 28, 2016 re the Application for Zoning By-Law Amendment, 178, 180, 184, 188, 190 and 194 Main Street.
Main Street Clock Inc. Files D14 NP 13-19

On 28 November 2016 Robert Forrest (the developer) made available to the public his letter to you of the same date concerning the above matter. I wish to comment on Mr Forrest's letter as it is relevant to matters before you at Council tomorrow evening (5 December 2016). You will be considering the Minutes of the meeting of the Committee of the Whole on Monday 28 November 2016 when you denied Mr Forrest's application.

I have requested a deputation to Council to speak on Mr Forrest's letter to you which I hope will be helpful. I applaud the decision you took to deny Mr Forrest's application.

My comments on the major issues raised Robert Forrest's letter are set out below, by page:

Page 1: The developer asserts that

"inadequate attention has been given to all the available evidence."

I agree. The developer's Floor Space Index (FSI) for example has been given inadequate attention. If approved, the Clock Tower development would have had the highest density in the whole of Newmarket, eclipsing present and future developments even on Yonge and Davis.

Page 2: Robert Forrest says he has committed to

"retaining and reconstructing the facades of the Main Street buildings".

His heritage consultants (Goldsmith Borgal) do not address the issue of whether the historic commercial buildings should be retained and not demolished because of their architectural merits or historic significance. The building at 184 Main Street South, dating from the mid 1840s, is historically significant.

In the section on the Heritage Impact Assessment (pages 2 and 3) Robert Forrest asserts that "meaningful dialogue" took place between his consultants (GBCA) and the Town's peer reviewer (ERA Architects), Main Street Clock Inc and Dave Ruggle from the Town's Planning Department

"regarding the design and the mitigation of mass".

The developer asserts that

"during that meeting there was acknowledgement and agreement between the two nationally recognised experts... that with some sculpting, 8 storeys would work on Park Avenue and 6 storeys on Main Street given the set backs".

Robert Forrest says

"the two heritage experts have brought monumental experience and expertise to support staff"

and

"that experts of this caliber (sic) should be arbitrarily rebuffed without consultation or explanation is disappointing, surprising and, in the end, shocking."

The question for Councillors to ask is whether the experts were aware of the FSI of the proposed development and how it had been derived.

In his PowerPoint presentation to the Statutory meeting (Committee of the Whole on 9 May 2016) Robert Forrest told councillors:

"There is no issue of a failure of us to be to scale."

Robert Forrest's arguments are all predicated on the development being to scale.

(The developer tells us that without 7 storeys he could not get financing for his project. A clear case of the tail wagging the dog. Subsequently Robert Forrest indicated in writing to the Town on 7 September 2016 that a 5/7 scenario was not buildable as it could not be financed. MSCI, recognising the high cost burden associated with this site, converted the initial 6 storey application to a seven storey application without increasing the absolute height in metres or mass of the proposed building. An additional level of saleable space was integrated within the previously proposed envelope.)

At the same meeting on 9 May 2016, the issue of scale was challenged by deputant Siegfried Wall who told the meeting:

"...the (Official Plan) policy references Table 1 which sets out density (maximum units per net hectare) and goes further to establish a maximum Floor Space Index (FSI) - gross floor area divided by lot area. For the Historic Downtown Centre the maximum FSI is 1.0. For the subject site this would translate to a maximum gross floor area of 11,362 sq m (excluding the Clock Tower) which is an FSI of 4.279; almost five times the permitted FSI"

Mr Wall also submitted lengthy written comments to the Town on 9 May 2016 elaborating on these points.

At the beginning of the meeting, the Mayor said

"staff would respond to the concerns raised".

Unfortunately, they never did.

We now know that Robert Forrest calculated the FSI of the Clock Tower development by including the floor area of the underground car parking - something specifically prohibited by the Town's own Secondary Plan. It appears to be a well established concept that the calculation of FSI should not take into account below grade parking spaces.

Robert Forrest places great reliance on the calibre of the heritage consultants including the peer reviewer, ERA Architects.

The developer says (on page 3):

"The Staff's key final recommendation turns entirely on heritage conservation considerations yet the recommendation does not reflect the comments received from two nationally recognised heritage experts, both of whom have won numerous heritage awards..."

I wrote to the Town's Chief Administrative Officer, Bob Shelton, on 17 May 2016 asking him to take steps to terminate the Town's five year contract with the peer reviewer ERA Architects. The Council delegated authority to staff to award this contract.

I advised Mr Shelton that the peer review did not address key issues and did not approach the standard the Town should expect.
Mr Shelton replied on 20 May 2016 saying he had discussed the review process with staff

"and advise that your comments and various points will be provided to Planning staff for their consideration as part of the review of the peer review report."

Councillors should now ask for sight of the review of the peer review report.

Page 3: Robert Forrest says (in the section Heritage Impact Discussion - Built Form) that the initial Clock Tower zoning application pre-dated Council's implementation of the Heritage Conservation District Plan for Lower Main Street South.

The Heritage Conservation District Plan for Lower Main Street South was adopted by the Town on 30 May 2011. Robert Forrest would have known his lands fell within the designated Conservation District with all that that implied.

On 8 May 2013 the Director of Planning, Rick Nethery, on behalf of the Mayor, wrote to me as follows:

"Council has directed that the Heritage District by-law be approved however, administratively, the Town has not been in a position to do this due to lack of human resources to fully administer the plan..."

"We can assure you that in the interim, any applications that are received by the Planning Department for redevelopment within the district boundaries will be reviewed against the policies of the plan, including consultation with the Town's Heritage Committee, Heritage Newmarket, as well as requiring Heritage Assessments as appropriate."

On 17 May 2013 Mr Nethery wrote:

"In short, the by-law adopting the Heritage Conservation District is required to fully implement the District Plan and have it be in full force and effect. While we utilise the Plan to assist in evaluating proposals, the passing of an adopting by-law gives the Plan its Official status."

Councillors should ask Staff why the implementing by-law was delayed when they knew an application to redevelop the Clock Tower lands was pending.

Page 4: There are issues raised by Robert Forrest concerning copyright infringements by the Town but this should have been, or will be, addressed.

Robert Forrest addresses the recommendations of the Heritage Newmarket Advisory Committee which he says are "prejudicial and misleading". He says issues such as the "underground watercourse", rubble stone foundations and vibration either have been, or will, be addressed.

The developer cites meetings held with the Library, Trinity United Church and the owner of 196 Main Street South in mid-April and early May 2016

"to review these items".

Trinity United Church has since told the Town by letter from its lawyers that it opposes Robert Forrest's original application and the Town planners' recommendations.

Page 5: Robert Forrest challenges recommendations made by the Heritage Advisory Committee.

The developer addresses Economic Development issues and gives various figures alleging the benefits that will flow to the local community from the construction of the building and the alleged benefits that will follow its completion.

He gives no indication of the costs to the local community and business owners of a prolonged period of disruptive construction activity.

Page 6: The developer lists various costs related to heritage buildings. He says the point of listing these costs is to make it clear that:

"... in order to preserve the heritage features there must be sufficient saleable area in the Clock Tower development to offset the cost premiums."

That is not the case. The Town has By-laws obliging owners of heritage properties to maintain them. The demolition of heritage properties is not required to save their facades.

The developer refers to 196 Main Street (the Olde Village Free House) saying

"Careful structural detailing and planning is required as relates to construction next to 196 Main Street South."

(The developer's property next door at 194 was scheduled for demolition with the facade only being retained.)

The developer refers to

"... the types of issues that Main Street owners will be facing in terms of the restoration of their own properties as is the case for 196 Main Street facade which is showing considerable bowing."

Councillors should ask themselves if the demolition of 194 will impact adversely on 196 and who should be responsible for any costs arising. This, surely, is an argument against demolition.

Page 7: The developer asserts that his development could serve as a model for intensification of small community core areas.

The developer concludes by reminding councillors that

"... under the Planning Act, Part 5 section 11, the statutory length of time allocated for a Council decision on a zoning application is within 120 days of the Town's receipt of the application."

The developer says his application had been with the Town for 300 days since the receipt of the application. During this period Robert Forrest had been in regular touch with the OMB giving updates and status reports. Clearly, there were ongoing discussions.

Page 8. The developer says he is

"... not accepting of either the current Staff Report or the recommended Zoning By-law Amendment."

Finally, he reiterates

"...our shock at the arbitrary and wilful disregard of the efforts of two eminent heritage architects, without explanation or consideration, a shocking experience."

I am shocked that he feels shocked.

I believe the review of the peer-review should be published and the contract with ERA Architects be terminated.

Finally, I want to congratulate councillors on their decision to deny Robert Forrest's Zoning By-law Amendment.

Yours sincerely

Gordon Prentice

Attachment: Robert Forrest's letter to the Mayor and Councillors dated 28 November 2016

Main Street Clock Inc.

590 Alden Road, Suite 211

Markham, ON L3R 8N2

T: 905/526-776 | F: 905/526-781

November 28, 2016

Mayor Van Bynen and Council
c/o Town Clerk, Andrew Brouwer
Town of Newmarket
395 Mulock Drive
Newmarket, ON L3Y4X7

Re: Application for Zoning By-Law Amendment,
178, 180, 184, 188, 190 and 194 Main Street
Main Street Clock Inc.
Files: D14 NP 13-19

Mayor Van Bynen and Councillors,

In reviewing the Staff Report, dated November 28, 2016, I have noted a number of points on which our records appear to be in disagreement, which I hope we can readily clear up.

There are also a number of other points in the report that I would suggest give inadequate attention to all of the available evidence, and which could leave the reader with a different impression than a more thorough review of the matter might produce.

To begin, I would like to provide you with the key dates related to this application:

Initial Zoning Application by Main Street Clock Inc. - August 23, 2013
Acknowledgement by Staff of a Complete Application - September 11, 2013
Implementation of the Heritage By-Law - October 21, 2013
Re-submission of our Zoning Application by MSCI - February 2, 2016
Acknowledgement by Staff of a Complete Application - February 4, 2016
Staff Report and COW - November 28, 2016

For ease of identification, I will be listing our points as they appear in the Report by page number:

1. Page 2 & 3- Proposal

- a. The date of the re-submittal of our Zoning Application by Main Street Clock Inc. (MSCI) was on *February 2, 2016*, not April 2016.
- b. Staff acknowledged, via email on *February 4, 2016*, that the application was accepted as being complete.
- c. Correction required, to paragraph 1 on page 3, to the date as identified above.
- d. The private lands identified in Market Square are indeed owned by Main Street Clock Inc. and they would form a portion of the land exchange. We are unsure if the Councillors are aware that we currently own a substantial piece of land in Market Square, upon which Newmarket residents currently park.
- e. We have, unquestionably, committed to retaining and reconstructing, the facades of the Main Street buildings that were identified in the Heritage Impact Assessment (HIA), Section 7 - Conservation Strategy, authored by Goldsmith Borgal & Company Ltd. Architects (GBCA), Heritage Architects. Subsequent daylighting was also conducted.
- f. Documents included in the re-submission, but not mentioned in the Staff Report include: the Economic Benefits Report, from Altus Group; BA Consulting Group Ltd.'s, Traffic Consultant, Special Events Parking Report; a letter from Terraprobe Inc., Hydrogeological Engineer, in relation to the Ground Water Conditions, debunking the underground river story; and a Pre-Construction Condition Survey of 196 Main Street, Newmarket.

2. Page 12 - Heritage Impact Assessment

- a. The Staff Report indicates that there was a "recent" re-submission of an updated HIA prepared by GBCA. In fact, the date of the HIA report was February 1, 2016, provided to Staff on February 2, 2016 as part of our re-submission, which Staff acknowledged on February 4, 2016.
- b. On September 21, 2016, there was a meeting held with our Heritage Architect, GBCA, the Town's Peer Review Heritage Architect, E.R.A. Architects Inc. (ERA), ourselves and Dave Ruggle, representing the Newmarket Planning Department. Meaningful dialogue took place between the consultants regarding the design and the mitigation of mass. During that meeting, there was acknowledgment and agreement between the two nationally recognized experts (which agreement has been disregarded in the Staff Report), that with some sculpting, 8 storeys would work on Park Avenue and 6 storeys on Main Street, given the step-backs.

Staff retains outside consultants and peer reviewers, because it does not have in-house expertise in many areas. Certainly, the two heritage consultants have brought monumental experience and expertise to support staff. That experts of this caliber, should be arbitrarily rebuffed, without consultation or explanation, is disappointing, surprising, and in the end, shocking.

- c. At that time, the financial viability of the project was discussed, and the Consultants recognized, there were alternatives that would not be financeable by a lender. Subsequently, Bob Forrest indicated in writing, to the Town on September 7, 2016 that a 5/7 storey scenario was not buildable as it could not be financed.
- d. It is noteworthy that MSCI, recognizing the high cost burden associated with this site, converted its initial 6 storey application, to a 7 storey application, without increasing the absolute height (in metres) or mass of the proposed building. An additional level of saleable space was integrated within the previously proposed envelope.
- e. The Staff's key final recommendation turns entirely on heritage conservation considerations, yet the recommendation does not reflect the comments received from two nationally recognized heritage experts, both of whom have won numerous Heritage Awards, Awards of Excellence in the field of Heritage Architecture, the Governor General's Medal in Architecture, the Canadian Association of Heritage Professionals Award of Merit for Rehabilitation, the Lieutenant Governor's Ontario Heritage Award, the Architectural Conservancy of Ontario Award for Adaptive Reuse and Heritage Restoration.

3. Page 18 - Heritage Impact Discussion (Built Form)

- a. It is important to understand that the initial Clock Tower zoning application pre-dated Council's implementation of the Heritage Conservation District Plan for Lower Main Street South, by two months. As the implementation of the Heritage Bylaw, threatened almost two years of previous consultation with the Town, plus our subsequent application, we were forced to refer the Bylaw to the OMB. In a gesture of goodwill, we agreed to permit the Bylaw to be implemented throughout the district, excepting on our lands. It would be unfortunate, were this gesture to result in our being disadvantaged.
- b. This report contains a rendering titled: "Perspective of the proposal as recommended." As the rendering in question has been constructed from one of our renderings, the Councillors and the public may now believe that we provided this and that we support it - neither of which is true.
- c. We sent Staff an email stating that we would not produce a rendering with the 5 and 7 scenario as it could not be financed, and therefore was not buildable.

- d. The 5/7 rendering was clearly arrived at by manipulating the renderings provided by us, which were submitted with clearly marked assertions of copyright. I note in passing that our copyright claim was removed from the images that appear in the report, and no permission was sought or obtained to manipulate our renderings or use them for any purpose not explicitly authorized by us.

4. Page 19-20 - Heritage Newmarket Advisory Committee

- a. I note that the April 5, 2016 document produced by the Newmarket Heritage Advisory Committee appears in the body of the report verbatim and without analytical comments. The document is primarily a series of recitals many of which fall well outside the purview and expertise of that or any such committee, are unsupported by evidence, and are in fact, specifically contradicted by evidence provided to Staff by us. These comments are prejudicial and misleading. That they appear in the Staff Report followed only by the bare comment that "Council must take into consideration the recommendations of the Heritage Newmarket Advisory Committee," with no discussion of erroneous information, or content exceeding its purview, would not find their way into a carefully researched analysis of the application without reference to factual support, comes as a serious disappointment.
- b. I set out below some of the points in question:
 - i. The "underground watercourse" which will "cause a change in the underground watercourse, and may cause damage to the other buildings in the Heritage Conservation District."
We provided Staff with a letter from Terraprobe relative to the Ground Water Conditions which refutes this assertion.
 - ii. That many of the buildings are built on rubble stone foundations, and that extensive excavation and construction may result in ancillary damage to other parts of those buildings. We have advised Staff that we will be doing a Pre-Post Construction survey of the buildings within the Zone of Influence (ZOI) and also Vibration Monitoring in the ZOI as well. This has not been reported in the Staff Report.
 - iii. In fact, we have met with Newmarket Public Library, Trinity United Church, and the Owner of 196 Main Street to review these items with them. Those meetings took place in mid-April and early May, 2016.
 - iv. Traffic from this building and its impact on Park Avenue has been addressed in our traffic report, and we have re-designed our underground parking garage to allow for stacking on the ramp. There is no impact from our building on the handicapped parking access at Trinity United Church.

- v. The turning radius of delivery trucks and moving vans is dealt with in the Site Plan application process and that should be identified in this report.
- vi. It should be understood that Main Street Clock Inc. currently owns a substantial piece of land in Market Square, upon which the residents of Newmarket currently park, with our acquiescence.
- vii. The statement that the building proposal does not preserve the building facades on Main Street is false. In fact, we conducted a heritage daylighting investigation to determine how best to preserve the Main Street store frontages.
- viii. That the Shadow Studies do not realistically show the potential impact on the surrounding buildings such as Trinity United Church is also not accurate.

As Staff knows, we specifically arranged for Trinity United Church to be laser scanned by our Architect, in order to obtain an accurate 3D model of the church which then formed the basis by which the Shadow Studies were done. Indeed, the 7 and 8 storey version of the proposed development does not cast shadow upon the Church sanctuary windows during a regularly scheduled church service.

- ix. Main Street Clock Inc. approached Trinity United Church, regarding protection of their stained glass windows. We approached Robert McCausland Limited on March 10, 2016, one of the premiere stained glass companies, respected throughout the world for their work, to take charge of protection.
- x. Parking reports have been provided to the Town, which clearly address the erroneous parking assertion.
- xi. It is important that the Councillors and Public know that we have on our own volition, dealt with the majority of the concerns identified by the Heritage Newmarket Advisory Committee.

5. Page 21 - Economic Development

- a. At the request of the Town Staff, an Economic Benefits Report was provided to the Town, yet there is no mention of that in this report.
- b. Construction of the Clock Tower, as proposed, will generate the following benefits in terms of economic impact upon full completion:
 - Over \$94 million in economic activity - \$44 million of which is direct economic activity;
 - \$44 million in net contribution to GDP, much of which will take place in the local community;
 - 482 person years of employment, much of which will occur in the local community;
 - \$51 million in income and earnings by households and businesses mostly in the local area;

- \$17 million in tax revenues generated across all levels of government;
- provide other benefits to the community as it will help the Town accommodate its expected population growth, continue to revitalize the Historic Downtown;
- provide a better mix of housing options for residents, and
- improve labour mobility.

6. Additional costs related to Heritage Buildings

- a. It should be noted that there are additional costs associated with the redevelopment of heritage properties.
- b. Demolition costs increase as the facades and separation of the building will require brick by brick removal to ensure the best possible outcome in the restoration process following construction.
- c. Specialized, bonded, insured, off-site storage is required for these elements during the time of construction.
- d. The restoration of the building and facades account for over approximately \$1,700,000 of costs in order to maintain the heritage component of the building.
- e. Soils remediation is required due to the fact that road salt was used in the past in Newmarket, and it has impacted the soils beneath the buildings. The initial quote for this removal was \$1,285,000.00.
- f. Special structural work is required in the heritage building.
- g. Careful structural detailing and planning is required as relates to construction next to 196 Main Street.
- h. The point being, that in order to preserve the heritage features, there must be sufficient saleable area in the Clock Tower development, to offset the cost premiums.
- i. This report also highlighted for the Town the types of issues that Main Street Owners will be facing in terms of restoration of their own properties, as is the case for 196 Main Street façade which is showing considerable bowing.

7. In Conclusion

The conclusion opined by the Heritage Architect, GBCA was that most of the ERA (Peer Review Heritage Architect) recommendations are reasonable and have been used to fine-tune the development and its presentation. Careful planning and adjustments to the proposed project have, in our view, further refined the proposed development.

In the view of GBCA, when Provincial Policies including intensification and heritage issues are reviewed in respect to the Clock Tower proposed development, the proposal continues to provide a balanced approach as directed by the Provincial Policy Statement and in a manner that the development could serve as a model for intensification of small community core areas.

This proposal represents a high quality urban design which is pedestrian friendly and provides residents the opportunity to walk to their desired destinations on Main Street.

It provides valuable entry level housing opportunities as well as housing for those who wish to give up their homes and enjoy condominium living. There are approximately 260 individuals who have expressed an interest in this proposed community.

We have informally shared with Planning Staff, that we have found the means to re-design the underground so that it does not extend under the Newmarket Library parking. This revised configuration, which was accomplished as to reduce our construction impact upon Library operations, is to be presented as part of a Site Plan Application.

In summary, we believe that we have worked with the Town of Newmarket in good faith, that we have been open to discussions and to providing additional information.

Following the extended period of time expended, and the delays incurred before we received this report, we had hoped for a different result.

It should be noted that under the Planning Act, Part 5 section 11 the statutory length of time allocated for a Council decision on a zoning application is within 120 days of the Towns receipt of the application.

The amended Clock Tower application was received by the Town on February 2, 2016. By the time of the Committee Of the Whole meeting on November 28th, it has been 300 days since the date of receipt of the application.

Further, we are also advising you that we are not accepting of either the current Staff Report or the recommended Zoning By-Law Amendment.

Finally, we must reiterate our shock at the arbitrary and wilful disregard of the efforts of two eminent heritage architects, without explanation or consideration; a shocking experience.

Regards,

MAIN STREET CLOCK INC.



Robert Forrest,
Secretary

Cc: Rick Nethery, Dave Ruggle, Bob Shelton, Peter Noehammer