

**Attn: City Clerk's Office
City of London**

Submission to Planning and Environment Committee

April 24 Public participation meeting

Ayerswood Development Corp. site plan – 940 Springbank Dr.

(File SP11-011305)

Petition

Enclosed are two PDF documents from 'Change.org' internet petition

1. Signatures
2. Comments

requesting that the City reverse its preliminary 2011 decision to approve a site plan larger than what the Ontario Municipal Board (OMB) mandated in 2001 for 940 Springbank Drive and reiterated in 2010. There are 382 electronic signatures on this petition. Some are from outside London. But rather than quibbling over whether some of these signatures should be ignored, consider this:

- There is at least two other similar manual petitions circulating that we understand will be submitted
- More importantly, it is almost inconceivable for a reasonable person to believe the vast majority of Byron and West London residents would not **vehemently** oppose approving a site plan that has a footprint one inch larger than what the City of London was FORCED to accept by the OMB.

These petitions simply reinforce that there is substantial public interest in minimizing the unnecessary blight on one of the most prominent and appreciated geographic and historic features in the City of London.

History

The public (and possibly some newer Councillors) are not generally aware of the history of this property. This knowledge is crucial to putting proper perspective on the current decision. This is a story with many twists and turns. Some key elements of this history, as best we can summarize from our understanding of events, include:

- **1967** The purchase of the property by the Developer with the *FULL KNOWLEDGE that it was (for OBVIOUS reasons) zoned 'open space'*. This is a steeply wooded slope of sand and gravel adjacent to the highest point in the city and overlooking Springbank Park.
- **2001** After repeated rejection by the City, the Developer's success in getting approval for SOME development, against the express wishes of Council and the people of the City of London, at the OMB. The Developer wanted two 12 storey apartment buildings and was given approval for one 12 storey building of a specific overall size. The Developer would have to consult with the neighbours and the City to draw up an appropriate site plan.
- **2002** The City's unsuccessful bid to overturn the OMB is ended by an Ontario Court of Appeals ruling
- **2003** The City decides not to spend the money to appeal the Supreme Court of Canada
- **2004** The Developer submits another site plan with significantly larger footprint and closer to adjacent property than the OMB decision allowed. The City objects and the OMB rejects the plan, although mostly, it appears, on the basis of its proximity to adjacent properties
- **2008** The Developer submits yet another site plan, moving it away from adjacent property but still with a *footprint roughly 43% larger in size than the 2001 OMB decision* implicitly allowed
- **Nov 2009** The City rejects this plan and the Developer again goes back to the OMB
- **March 2010** The OMB **EXPLICITLY** states that **"The Board finds that the proposed site plan does not meet the spirit and intent of the original Rosenberg decision."** That is, amongst other things, the size of the building is much larger than what Rosenberg approved and they recommend the Developer revise the site plan to reduce the 'footprint'
- **June 2011** At a "Built and Natural Environment Committee" public participating meeting, the *mayor and a handful of other councillors, notably including Paul Van Meerbergen in who's ward the site is located, supported the site plan and pushed swift approval the vehement objection of staff, Councillors on the committee and attending members of the public. This decision flies in the face of the 2010 OMB reiteration of the need for a smaller site plan. In fact, Council decides to 'take over' the process from City staff. This is HIGHLY unusual*
- **Aug 2011** The OMB appears to state, in a letter to Patton Cormier & Associates, that, notwithstanding its disapproval of the site plan (or, more specifically, a previous similar one), the City may approve the site plan without reference back to the OMB and the OMB does not have the authority to enforce its 2001 and 2010 decisions if the City decides to agree with the Developer and otherwise deals with the concerns of neighbours about location of the building on the site.

- **Sep 2011 Council unbelievably reverses over 40 years of consistent objection to development of the site and to development in excess of what the OMB mandated against the wishes of the City. It approves the site plan subject to verified completion of the necessary engineering studies. The vote:**
 - Approve – Fontana, Brown, Brown, Henderson, Orser, Polhill, Swan, Van Meerbergen, White
 - Opposing- Armstrong, Baechler, Bryant, Hubert, Usher
 - Nancy Branscombe was unable to attend

Councillors Armstrong, Orser, Swan and Van Meerbergen changed their votes from ‘no’ in 2009 to ‘yes’ in 2011.
- **Nov 2011** At the Built and Natural Environment Committee meeting, some members of Council expressed impatience over the delays that were being caused by unmet delivery of hydrogeologic and slope stability reports to City staff.
- **Jan 10, 2012** A summary letter of a peer review of the Golder Associates report (acting for the Developer) Developer’s is received from Terraprobe by the Environmental Services Engineering Department. City staff had commissioned this peer review. Terraprobe indicated that several critical hydrogeological and slope stability questions had YET to be adequately answered by the Developer and Golder Associates.
- **March 29, 2012** Golder Associates, in a letter to Mr. John Braam, P.Eng., Acting Executive Director and City Engineer, as best we can tell, in response to the challenge from Terraprobe, simply reiterates they believe the work they had done through 2011 is sufficient.
- **April 10, 2012** The lawyer for the Developer complains to Council about delays in getting site plan approval whilst not indicating any plan to address the concerns in the Terraprobe review. *In spite of misgivings by staff and several councillors, City staff was directed to prepare the appropriate site plan approval clauses*
- **April 2012** Evidently, the Development Services Division (the Department evidently now dealing with this process) has signed off on the plan

This is NOT an Economic Development Issue

Some Councillors may have approved this building due to personal views about current priorities (jobs) or ideological beliefs about property rights. We won’t try to dissuade those who believe in largely unfettered property rights. As for the former argument (jobs), let’s be clear: Economic ACTIVITY is NOT economic DEVELOPMENT. With all due respect to the hard working people in the construction industry, putting up an apartment building is not a vehicle for long term economic growth. It merely provides a few jobs for a short period of time. And providing a few jobs MUST NOT override long term community good at all costs.

Comments

- Council MUST know that the majority of the citizens of London would oppose this development
- Council MUST know that the VAST majority of Byron and West London residents would oppose this development
- Council MUST *suspect* that the Developer is, over the course of decades, coming to Council with these larger than approved site plans because the smaller site plans are not economically viable. If this is the case, then there is an opportunity to avoid development on this slope altogether, in keeping with the wishes of citizens and the historic position of the City of London
- Councillors familiar with West London and Byron MUST know that the impact on Springbank Drive and the intersection of Springbank and Commissioners, both during and after construction, will exacerbate an already troublesome traffic flow issue getting in and out of Byron.

Questions

It would be helpful for citizens to have answers to these questions, regardless of whether approval for this site plan moves forward or not.

- Why did Council approve a site plan that it has no need to approve, particularly if it is possible that failure to approve the larger building may (however remote the possibility), mean that the developer will not build (as was the City's position from day one and unquestionably is the desire of the vast majority of Londoners who are aware of this plan)
- Why did some Councillors change their "no" vote from a previous and similar "non-compliant" plan in 2009 to "yes" in 2011?
- Ward 9 residents have a right to know why our Councillor, Mr. Henderson, would vote in favour of a project/site plan that he must know by now is not in the interests of his constituents and provides a limited number of short term jobs. His vote is particularly egregious, in our view, given that he lives roughly 30 kilometres away from the ward and doesn't have to live with the consequences

Citizens of London have a right to hear the answers to these questions from their elected officials.

Our Expectation

We believe it is reasonable for us to expect Council to abide by the well reasoned decisions of previous Councils and the express limitations on the site plan demanded by the OMB as recently as 2010 (recognizing that even that site plan, any building, was expressly and rightly rejected by previous Councils and fought in court). But most importantly we expect Council, within the legal limits it faces, to respect the OBVIOUS and clearly expressed wishes of Londoners in general and the residents of Byron and West London in particular.

We make this submission at a time when Council appears to be following this ad-hoc deviation from zoning, planning processes and staff accountability for such matters in respect of other development proposals. It is time to return to the fairer, transparent, objective and predictable processes of the past and to respect the reasonable expectations of Londoners in these matters.

Please do NOT approve this site plan as submitted. Please do NOT approve a plan one millimetre larger than approved by the OMB, recognizing that even that plan is an affront to the citizens of London and the residents of Byron and West London.

Thank you

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April 22, 2012