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Date: April 1, 2023

To: Town of Amherstburg, Members of Council

RE: Proposed Application for Zoning By-law Amendment
256 Dalhousie St.

Author: Robert Brown, H. Ba, MCIP, RPP

Purpose

To provide an overview of the concerns expressed by my clients (residents of 252 Dalhousie) in relation to the proposed development of a boutique hotel at 256 Dalhousie, south of my clients' residence.

Background

It is my understanding from the application submitted to the Town that the owner of 256 Dalhousie St. would like to redevelop the property by removing the existing building and replacing it with a new five storey, 13.7 m high building that would house a number of hotel rooms and possible restaurant.

On March 7th a number of my clients and I met with the Manager of Planning Services and the Deputy CAO/Director of Development Services to gain a better understanding of the proposed development. At that time it was our understanding that the development would require site plan approval and was in compliance with applicable zoning standards. We had also requested that the Town provide confirmation that the applicable zoning standards for the development were in full compliance. The reason for this request was based on a concept elevation that had been circulated several weeks earlier clearly showing the building extending beyond the rear wall of 252 Dalhousie. (See attached conceptual elevation) On March 14th (also the date the zoning application was submitted) a second request was forwarded to the Town. An automatic reply noted that the Manager was out of the office. On March 22nd we received an e-mail that the application had changed. Subsequent follow-up then led to what that change was, the zoning amendment request now before Council.

In my experience this is a very quick turnaround on any zoning application and leads me to believe that there was little to no pre-consultation and very little if any consideration or review of the proposal before circulating a notice of public meeting. In fact, the application was deemed complete the same day that it was received. How is that possible unless there was pre-consultation with the applicant prior to March 14th and was staff aware of this at the time of the March 7th meeting with my clients?

While my clients (See Appendix A) understand that this development is considered a permitted use under the current commercial CG-4 zoning on the property they have a number of concerns related to the development, particularly the requested reduction in the rear yard setback from 7.5 m to 0 m. There are also several Official Plan policies which we believe need to be given closer consideration for the proposed development.

Outline of Concern

1) Reduction of rear yard setback to 0.

Comment: The current location of and zoning on the subject property are such that there are very few applicable zoning provisions, no front yard, no side yards, and no parking requirements. This is by no means unusual for downtown areas due to the age of the area and general lack of regulations in place at the time of original development.

If the setback is reduced to 0 at 256 this will have a significant number of direct impacts on the existing residential use at 252 as well as potential indirect impacts on the downtown area including the following:

- i) Negatively impacting site lines for 252 for cars existing the underground parking area creating an unnecessary safety issue;
- ii) Impact on light and air flow for units immediately abutting the proposed development at 256 impacting the ongoing use and enjoyment of their residences and not in conformity with Section 6.2.5 (2) of the Official Plan (See Appendix B);
- iii) Has the developer of 256 provided a shadow impact study to demonstrate potential impact of the requested reduction in the rear yard?
- iv) Privacy and noise concerns related to what appears to be an outdoor patio on the roof and individual balcony areas for the hotel units on each floor, is the proposed development in full compliance with the various considerations under Section 3 (22) Outdoor Patio (See Appendix B);

- v) If a restaurant is included with the development what impact will there be on 252 in terms of odours both cooking and waste?
- vi) With no rear yard there is no area that could be used for loading, service vehicles, staff parking and waste disposal. Did the site-specific zoning of the property take into consideration conformity with Section 4.4.2 paragraph 7 & 8, and Section 5.4 Off-Street Parking in the Official Plan (See Appendix B);
- vii) Does the current amendment conform with the sections noted in item vi)
- viii) What impact will the development, with no rear yard setback, have on the future value of the condo units at 252?
- ix) 100% lot coverage leaves no green space and no area for stormwater water management or buffering to address Section 4.4.2 paragraph 7 (See Appendix B);
- x) 100% lot coverage leaves no room for staging of construction activities or building materials and will likely lead to encroachment requests on Dalhousie St and the alley to the rear which will impact access for other businesses to the south and generally be disruptive to both the residents at 252 and potentially impact on the condition of the alley and parking lot to the north;
- xi) An off-site construction staging area may be necessary which will be disruptive to the area and generate traffic between sites;
- xii) There is significant public access to the waterfront (Navy Yard Park) in this area that is not compatible with what will likely be several months of construction;
- xiii) 100% reduction of the rear yard leaves no option to provide a drop-off area for the hotel and there is little to no room on Dalhousie to safely accommodate this activity;
- xiv) As part of the application the applicant has not provided any planning justification in support of a 100% reduction in the rear yard setback. Simply noting that the additional room is required for suites and balconies does not represent justification nor has it considered any of the impact or suggested any form of mitigation to address those impacts;

- xv) Represents the setting of a precedent for new development by eliminating the rear yard setback. Can this be supported on other downtown commercial lots and what is the long-term impact?
- xvi) Notice of Public Meeting has not been properly undertaken in compliance with the Town's Official Plan policy, Section 7.16 (See Appendix C) The policy requires that a sign be post on the subject property at least 30 days prior to the public meeting. To our knowledge no sign has ever been posted and certainly not for 30 days.

Conclusions

Development of the property at 256 Dalhousie is permitted, this is not in question. The commercial zoning permits the use and the addition of uses such as this are certainly attractive to the Town, help rejuvenate the downtown and provide much needed accommodations as long as the policy considerations in the Official Plan are being properly addressed.

If 256 Dalhousie is respectfully developed within the permitted footprint (0 front and side yard setbacks and maintenance of the 7.5 m rear yard setback) many of the impacts outlined in this correspondence can be positively mitigated and perhaps reduce potential incompatibility between a residential and commercial use. My clients are open to consideration of alternatives but only if they demonstrate that they will limit negative impacts on 252.

I believe that my clients are aware that living in the downtown area is likely not the same as living in a residential subdivision and that from time-to-time activities in the area might not be typical of what you would encounter in a residential area.

A previous Council approved the development of 252 Dalhousie which led to a beautiful residential development in the downtown area that is important to the area's health and well-being. Council and administration must take this into consideration and recognize that 252 was developed first and has to be afforded a certain level of consideration in relation to new development.

Many downtown areas often have residential development which is associated with ground floor commercial space. Often the Official Plan limits residential development to this type of arrangement. When downtown areas are struggling to fill vacant space municipalities often receive requests to support zoning amendments or Official Plan amendments to permit additional residential uses. In the short-term this can seem to be a harmless request and does seem like a positive to have people living and interacting in an area that needs year-round activity. What can't be overlooked however is the fact that you are introducing a potential compatibility issue for ongoing commercial

development. That issue is unfortunately at the root of my clients' concerns with the proposed hotel development.

We respectfully request that Council not support the requested zoning amendment to eliminate the required rear yard and that the developer be instructed to amend the current site plan proposal to comply with the applicable zoning standards.

If Council decides to proceed with consideration of the application at a future meeting it is recommended that Council deem the application pre-mature and direct administration to:

- i) start the application process over and undertake a complete review of the proposal;
- ii) that an open house be held by the applicant to hear the residents concerns and that public notice be redone in compliance with the Town's Public Notice policy in the Official Plan, and
- iii) that the applicant prepare and submit a proper planning justification report as part of the complete application process.

Prepared by:

A handwritten signature in black ink, appearing to read 'Robert Brown', with a long horizontal line extending to the right.

Robert Brown, H, Ba, MCIP, RPP
Principal Planner
Oakview Land Use Planning