

ROTHESAY

Public Hearing – 50 Hampton Road
Minutes

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16 January 2023

Comments: Email from resident Hibbard Lane
 Letter from resident Summer Rose Lane
 Letter from resident Hampton Road
 Letter from resident Hampton Road

Mayor Grant reported the applicant, Mr. McKay, was delayed during travel and will not be in attendance. In his stead, Peter MacKenzie, of Comeau MacKenzie Architecture, gave a presentation. Mr. MacKenzie spoke of: experience working with Mr. McKay on other multi-unit projects; the high-quality nature of the project; an aesthetic comparison to the condominium buildings at 52-54 Hampton Road; the suitable size and location of the land; an intent to maintain natural vegetation; total units (27); underground (32) and aboveground (11) parking spaces; and enrollment in the CMHC Green Building and Affordability programs – building designed to be 25% more efficient than standard buildings.

Council inquired about: lot size – including area of the building and asphalt; wheelchair access; electric vehicle (EV) charging stations; cost of affordable units; vegetation discrepancies on the site plans; rationale for location of the driveway off Hampton Road rather than behind it or with an entrance through the Arthur Miller Fields property; the fire lane; the negligible traffic impact; and if there is a target age for tenants.

Mr. MacKenzie responded with the following:

- Lot size is 1.25 acres with dimensions of 140ft x 375ft x 300ft;
- Building coverage will be less than 30% (maximum 35%) and he does not know the total asphalt coverage;
- The building is wheelchair accessible – elevator access from the parking garage (3 underground accessible parking spaces), and inclusion of barrier-free units
- Five EV charging stations with possible increase of 50% as demand dictates
- In accordance with the CMHC program, market rent will be discounted by 15% for the affordable units (2 bedroom)
- Privacy will be maintained through an enhanced setback distance from 52-54 Hampton Road, and maintenance of natural vegetation surrounding the lot. Additionally, a landscape architect will be retained for a detailed landscape design, and continuity will be established by erecting a privacy/noise reducing berm similar to the one at 52-54 Hampton Road;
- The project is not at liberty to use the driveway to the Arthur Miller Fields property as an entrance, relocating the driveway on the other side of the building impacts existing vegetation and requires that the building be moved closer to the condominium buildings;
- The driveway is the fire lane, and a turning point is not required as the length is within 80 meters – fire trucks will back out of the property; and
- It is illegal to discriminate based on age when considering potential tenants.

Ms. Jill DeMerchant, of Englobe, responded to inquiries about the traffic study, noting: it is expected the development will generate 9 vehicles (morning) and 13 vehicles (afternoon) during peak hours; there are roughly 500 vehicles that travel Hampton Road – in both directions – during peak hours; therefore, an additional 9 and 13 vehicles per hour is negligible, as it does not exceed the maximum capacity of 1,000 vehicles, per lane, for Hampton Road. She assured Council that the traffic study utilized data from 2016 and 2021 to ensure various factors were considered – the pandemic, school hours, and fluctuations in population, business, development, as well as an annual growth rate of 1%.

Council raised concerns that the existing volume of traffic, during peak hours, is problematic, especially when unexpected construction arises. Furthermore, 9 and 13 vehicles in the morning and afternoon is believed to be unrealistic. Ms. DeMerchant responded to this, and further inquiries, with the following: the estimate relates to vehicles per hour; nationally accepted formulas were used for the calculations; some tenants may work from home or travel outside of these hours; and the amount of parking spaces is based on the total number of dwelling units.

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Mayor Grant invited the Director of Planning and Development Services (DPDS), Brian White, to give a presentation.

DPDS White highlighted: the rezoning request, lot size, staff support for the project, the recommendation from the Planning Advisory Committee (PAC), location of the property – zoned single-family residential but designated for high-density residential and the location between Arthur Miller Fields and 52-54 Hampton Road. He elaborated on the preference for the driveway off Hampton Road, noting it creates a greater distance (50ft) from the property line/condo buildings, and avoids a traffic conflict with the entrance to the Arthur Miller Fields. He further noted: the design of the building will emulate the condo buildings; results of the shadow study were negligible; and the site plan shows landscaping with continuation of the hedge along Hampton Road. DPDS White spoke of: a completed traffic study; 27 total units (22 with a density bonus of 5, owing to inclusion of 7 universal design barrier-free units and 3 affordable units); relocation of the pedestrian crossing signals from the Grove Avenue/Hampton Road intersection to a new crosswalk in front of Arthur Miller Fields; and polling concerns pertaining to property values, traffic congestion, and density. He concluded by noting the draft development agreement was amended at the request of PAC to include stipulations that the project is completed in a timely manner. The developer has 36 months to start the project and then 24 months for completion – an occupancy permit will not be issued until completion.

Council raised concerns regarding: the relocation of pedestrian crossing signals from Highland Avenue/Hampton Road; responsibility for installation of a fire hydrant; public safety if a retention pond is constructed; the rental cost of “affordable” units (estimated at \$1725 per month exclusive of utilities, electricity, etc.); an intrusive density transition; installation of a crosswalk in close proximity to three access points to Hampton Road (Arthur Miller Fields, 50 Hampton Road, and Henderson Park Road); lighting on the proposed building; and use of universal design units by individuals that do not need them.

DPDS White responded with the following: the crossing lights at Highland Avenue will not be moved, this was an error in one of the staff reports; the signals will be relocated from the Grove Avenue/Hampton Road intersection; the cost of installation for the fire hydrant will be borne by the developer if the Fire Department deems it necessary and, if so, a location will be determined; in accordance with Town by-laws a detailed stormwater management plan is forthcoming should Council approve the project; staff share concerns and are investigating ways to improve affordability – a report will be brought back to Council; there are single-family homes nearby but not close enough to cause a land use conflict; there is a reasonable density transition as the property is on Hampton Road, and immediately abuts multi-unit condo buildings, townhomes, and Arthur Miller Fields; apartment buildings and condominium buildings are not differentiated by ownership (in planning terminology), and both are considered multi-unit residential buildings; the property is also considered the “bookend” of high-density along Hampton Road; the location of the proposed crosswalk was reviewed by the Town Engineer and deemed an enhancement to public safety; the proposal must comply with Town by-laws stipulating that lighting will not be directed onto neighbouring properties; a 50 ft setback distance and vegetation will also contribute to screening/dampening light and noise; and the development agreement is intended to ensure that universal design/barrier-free units are rented to tenants with mobility, auditory, visual, or other limitations that require them.

Mr. MacKenzie addressed stormwater management, listing several options for stormwater retention. Should surface ponds fail to drain within a 45-minute timeframe, then options will be explored, especially in terms of safety.

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Councils. Brown and Lewis reiterated interest in relocating the driveway to the other side of the building, with or without an entrance to Arthur Miller Fields. Doing so would eliminate possible light and noise concerns for individuals in the condominium buildings. Additionally, an entrance from the Arthur Miller Fields driveway would improve public safety by eliminating another access point to Hampton Road. Councils. Mackay French and Shea inquired about staff's rationale against an entrance through Arthur Miller Fields. DPDS White explained the option was examined by staff and the Planning Advisory Committee but was not deemed a viable option. He noted the Town Engineer can explain the specific rationale at the next Council meeting.

Andrew McKay arrived at the meeting.

Council inquired about enforcement of completion and the rationale for eliminating a bond. DPDS White explained that the development agreement is a contract between the Town and the developer, that includes new clauses ensuring the project is completed in a timely manner. If breached, legal action can be pursued. An occupancy permit will not be issued until completion. He added securing a bond for completion was deemed problematic as it could shift responsibility to the Town for construction.

Mr. McKay added interest costs are accrued on the property, however, income is not received until an occupancy permit is issued. This incentivizes developers to obtain occupancy permits as soon as possible. He mentioned he has persisted through supply chain issues and staff turnover during the past few years.

Mayor Grant called three times for those wishing to speak against the proposal. The following people spoke:

Kim Newhouse, 57 Hampton Road, thanked Council for sharing public concerns. She suggested consideration be given to the total density along Hampton Road, noting there are several approved multi-unit developments within a 1.4 km stretch (225 units in total). She disagreed with staff's interpretation of a smooth density transition, noting units per acre fluctuate from 145 Hampton Road (28.6 units per acre), to 15 units per acre at 52-54 Hampton Road and then increases to 24.5 units per acre at 50 Hampton Road. She added, using the requirement of 1.6 parking spaces per unit, roughly 360 additional vehicles are entering/exiting Hampton Road in the 1.4 km stretch – not a negligible impact. Additionally, traffic is regularly interrupted by construction which will likely occur during the project's five-year timeframe. She agreed with re-evaluating the driveway location and possibly utilizing Arthur Miller Fields as an entrance. She raised further concerns regarding maintaining natural vegetation/greenspace, overall population growth, impact on surrounding property values, and public safety. Mr. McKay mentioned the project design includes a combination of, existing and new, vegetation and greenspace.

Don Mitchener began by stating he is not a lawyer but has experience with contracts as a Chartered Professional Accountant. He cautioned that there may be details in the development agreement that allows the developer options and could prevent enforcement or recourse. He provided examples such as wording (the legal name of the Town, or the number of units) and lack of consideration for CPI. Mayor Grant and Town Manager Jarvie confirmed that "Rothesay" is the legal name of the municipality. Mr. Mitchener was appreciative of the clarification. He expressed concern about stormwater management, stressing the importance of gravity and the power of water. He shared issues with safety and the effectiveness of the retention pond at 52-54 Hampton Road. He added he has reached out to Mr. McKay, to resolve an issue in his condo, but has been ignored – one attempt involved a registered letter that was returned. Mr. Mitchener mentioned his correspondence may appear to be against the project but he is neither for or against the project. He simply encourages the Town to be aware of the legal implications if the development agreement is not iron-clad, especially since litigation is expensive.

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Andrew Baskin stated he is neither for nor against the project but wants to look out for the Town's best interests. He raised a concern regarding financial viability, noting Mr. McKay has a lot of projects on the go, some of which have unresolved issues. There was a slight verbal disagreement between Mr. Baskin and Mr. McKay as Mr. Baskin left the meeting room.

Chris MacDonald and Jane Grannan, of 1 Henderson Park Road, spoke. Mr. MacDonald raised further concerns about substantial development along Hampton Road, including a nearby project approved on Highland Avenue and Hillcrest Drive. He stated public concerns are similar for both projects, especially with respect to traffic. He agreed that an entrance through the Arthur Miller Fields property would reduce concerns relating to another entrance onto Hampton Road. He spoke of a difference between apartments and condos, noting the former is typically temporary for tenants whereas the latter is more long-term. Ms. Grannan expressed concern that nearby properties (across the street) are impacted but there is a sole focus on properties directly abutting the project. She noted multi-unit buildings in the area are overwhelming (3-4 storeys), and the Town should "tier-down" through smaller projects such as townhomes. She raised other concerns regarding: property values, inadequate public notification (online is insufficient – signage should be posted on the property), and ignored public concerns.

Mayor Grant called for order to silence interruptions from the crowd. In response to Ms. Grannan's concerns, she noted the purpose of a public hearing is to gather feedback from the community.

Ms. Grannan continued by stating she is concerned Council has already made its decision. She reiterated that the subject land is not appropriate for an apartment building, instead it should be located on the vacant land near Sobeys which allows better walkability. She raised further concerns about the Town's recent interest in apartment buildings and a lack of concern for surrounding property owners. She concluded by noting her longtime residency in Rothesay may come to an end if the Town continues the way it has – listing examples such as the sale of Spyglass Hill land, ignored public feedback for other developments (Dunedin Road), and accommodating developers over residents (use of the Hillside Trail as an access road for construction).

Chris Melanson stated he has lost trust in Council and is selling his home. He expressed frustration that Council appears to have already made its decision. He explained that he, and other residents, plan to move from Rothesay because Council does not protect its residents. He raised concerns regarding Mr. McKay's reputation for unfinished projects and cautioned that this will be a problem if the development agreement cannot be enforced.

A disagreement broke out between Mr. Melanson and Mr. McKay. Mayor Grant called for order and asked Mr. Melanson to leave the meeting.

Richard Thorne, 52 Hampton Road, noted he is saddened by a lack of responsiveness to reasonable suggestions regarding building size, and location of the driveway off Arthur Miller Fields. He noted there needs to be more attention to greenspace and a possible retention pond, noting the pond at 52-54 Hampton Road is unsightly. He stated he is happy where he resides and does not have many options for relocation other than a nursing home. He agreed that 52-54 Hampton Road remains unfinished. With respect to landscape architecture, he proposed sustainable designs should be considered, for instance, those of Brackish Design. He mentioned garbage trucks and service vehicles are expected to make regular visits and could create noise concerns. These concerns could be managed by using the Arthur Miller Fields driveway as an entrance. He concluded by adding 52-54 Hampton Road is considered an "accessible" building yet it does not have automatic or pneumatic doors. The doors are heavy and pose issues for older tenants.

Mayor Grant called three times for those wishing to speak in favor of the proposal.

Hearing none, Mayor Grant invited final comments from the developer.

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Mr. McKay provided reassurance that Town staff have been strict about requirements for the project’s design. He noted placement of the driveway was intended to create as much space as possible between the apartment building and adjacent condo building. He added it is also beneficial in terms of reducing shadows. He responded to other concerns by noting: ceiling heights are standard; the height of the building is less than the condo buildings; the design of the condominium buildings was intended to emulate Town Hall (roof); he will personally own the apartment building and intends to create a high quality project; the project has elements of affordability and accessibility; and the location is suitable as it is surrounded by multi-unit buildings and townhomes. He added some individuals sold their homes following construction of the condo buildings. He reviewed the sales and the property values increased rather than decreased. He concluded by noting the project is something the Town needs. He commented there is a current legal action between him and an individual who spoke earlier.

Counc. Lewis asked about Mr. McKay’s definition of “affordable living”. Mr. McKay clarified the rental cost of the affordable units will be \$1,200 per month (2-bedroom units). When questioned, he stated the 3-bedroom units will be \$2,300-2,400 a month.

Mayor Grant reiterated that a decision will not be made tonight and thanked all in attendance.

3. Adjournment

The public hearing adjourned at 8:57 p.m.

Original signed by Mayor

MAYOR

Original signed by Clerk

CLERK