

SCHEDULE H

PUBLIC COMMENTS

- 1) Public Meeting – [June 12, 2023](#) (Item 6.a)
- 2) Minutes – subject to Council approval on June 26, 2023
- 3) Public Comments
 - a. Thompson Centres co Cuesta Planning Consultants – June 7, 2023
 - b. Sydenham Square Inc co Cassels Brock & Blackwell LLP (Raivo Uukkivi) – June 19, 2023

From: [Cuesta Cuesta Planning](#)
To: [Public Notices](#); [Sabine Robart](#); [OS Planning](#)
Cc: [Lou Meandro](#); [Stephanie Hill](#)
Subject: Zoning By-law Amendment No. 48 (2125 16th Street East)
Date: June 7, 2023 5:50:29 PM

Dear Sabine:

As you are aware, Cuesta Planning Consultants Inc., were the project planners for the recently approved Thompson Centres commercial plaza located at 1960 16th Street East, Owen Sound. The Thompson Centres lands are located kitty corner from the subject lands-municipally described as 2125 16th Street East.

Mr. Lou Meandro of Thompson Centres has an interest in the subject re-zoning application. Our office therefore respectfully requests notice of any further public meetings or Council meetings related to the subject application.

Notice can be provided to our office at this email address as well as directly to Mr. Meandro (copied herein).

As you know, our client was required to retroactively contribute to intersection upgrades at the intersection of 16th Street East and 20th Street East as part of the approval process for his development. This financial contribution was significant.

Unfortunately, during the later stage of review and approval of Mr. Meandro's development, it was confirmed that the intersection, in fact, had been underbuilt and Mr. Meandro was required to rebuild the intersection in order for it to function adequately and accommodate his and future development at this location.

It is our opinion that there is an opportunity for the City of Owen Sound to review this matter during the approval process of the subject application and require the developer of 2125 16th Street East to contribute an appropriate amount toward the recent upgrades to the 16th St./20th Ave. intersection as a party who will directly benefit from the recent upgrades.

While we have not had a chance to review the Market Study completed for the proposed development at 2125 16th Street East, we are concerned with some of the proposed restaurant uses on the subject lands. During development of the Thompson Centres plaza, planning staff had indicated to our office that only large scale restaurants would be considered at 2125 16th Street, given the significant size of the parcel and the fact that large scale restaurants cannot be easily located in the downtown area. We would like an opportunity to further discuss this matter with planning staff prior to approval of the subject application.

Thank you for your consideration of the above noted comments. We hope to have an opportunity to further review the application materials and provide additional comments prior to Monday's public meeting.

Sincerely,

Genevieve Scott

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June 19, 2023

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Mayor and Members of Council
The Corporation of the City of Owen Sound
808 2nd Avenue East
Owen Sound, ON N4K 2H4

Dear Your Worship and Members of Council:

Re: Application by Villarboit (Owen Sound) Holdings Limited Partnership and Heritage Grove Centre Inc. ("Villarboit") to permit a grocery store use

We are the Tribunal Counsel for Sydenham Square Inc., who are the developers of the property located at 2275 16th Street East in Owen Sound.

We are writing to Council to express our client's significant concerns with respect to the proposed introduction of a grocery store proposed by Villarboit (Owen Sound) Holdings Limited Partnership and Heritage Grove Centre Inc. ("Villarboit") at 2125 16th Street East in Owen Sound. Sydenham's property is immediately adjacent to Villarboit's development. For the reasons that follow, we ask that City Council refuse the Villarboit proposal to introduce a grocery store use as proposed.

Our client has the following significant issues with the grocery store use:

1. Land use conflict arising from the introduction of the grocery store use;
2. Inability to demonstrate compliance with the *Environmental Protection Act*, and specifically the requirement not to introduce noise that exceeds the legislated limits; and
3. Failure to provide a traffic study that considers Sydenham's approved development and the mutual access that the City has approved to the Sydenham site.

The following detailed analysis demonstrates how the Villarboit proposal fails to meet several policies of the official plan specifically designed to protect developments like Sydenham's site from the otherwise irreconcilable land use conflicts that otherwise can occur.

The land is located in the East City Commercial District under the City's official plan. As such, it is subject to several relevant policies of the official plan, including the General Commercial Policies, the East City Commercial Policies, Infrastructure Policies and Urban Design Policies.

Policies [3.2.3.5](#) and [3.5.2.3](#) of the Official Plan are applicable and provide that off-street parking and points of access to the site are to be developed in accordance with the policies in 8.6.6 of the official plan. Policy 8.6.6 emphasizes the need for safe vehicular and pedestrian access to the site. The Villarboit proposal fails to meet these policies of the plan as it has created a significant conflict between the loading proposed to occur and the vehicular access that will share the same drive aisle. This has not been appropriately mitigated in the proposal to introduce a grocery store. The proposal requires specific site directives in the zoning by-law prohibiting the use of the mutual driveway for backing up of trucks for loading purposes. The site is large enough to be reconfigured so that loading can occur elsewhere on the site.

Policy [3.2.3.6](#) requires a consideration of the maneuverability of traffic between sites on a common driveway. The Villarboit application has failed to do so. Instead, it is proposing a site that maximizes the nuisance and maximizes land use conflicts on the common driveway. This fails to meet this important policy of the official plan. There are alternative site layouts that would allow for loading to be provided in a manner that does not create as many traffic conflicts.

Policy [3.2.3.9](#) allows the City to specifically consider the proposed use in a commercial zone and to consider whether there are special considerations upon which the City should refuse to allow the use. In this case, it is our client's position that the grocery store use, as proposed, creates an irreconcilable access conflict with the Sydenham site that should not be allowed under this policy until an alternative site layout with fewer conflicts is introduced and imposed by specific requirements under the zoning by-law prohibiting loading on the common driveway, requiring loading to occur internally on the site, and confirming that the other conflicts, including noise and traffic volumes can be addressed.

Policy [3.2.3.11](#) requires this site to be considered in accordance with Section 8.6.7 as it is adjacent to Sydenham's residential use. Policy 8.6.7, and specifically policies [8.6.7.4](#), .5 and .6, emphasize the need for a new commercial use to carefully consider the compatibility of the proposed use and the location of its loading with the adjacent residential uses. This sensible policy emphasizes the land use conflicts that must be balanced and makes clear that they have to be carefully and sensitively designed. There is nothing more frustrating to a residential land user than a commercial delivery truck blocking access to a site. The failure to adequately study this conflict where the use presents such an obvious problem fails to meet this official plan policy objective. This is emphasized by the policy directive to avoid locating loading areas close to residential uses and the need to consider whether the noise generated by the site will unduly interfere with the residential use. The Villarboit proposal cannot meet these policy objectives based on its proposed land use and lot layout. A compatibility study can be required to address this, something that has not been required for this site nor has one been properly provided that considers these critical issues and conflicts.

Policy 3.2.3.12(c) requires the proponent to demonstrate how the use will be compatible with the adjacent uses. In this case, Villarboit has failed to reconcile the introduction of a loading area and grocery store with the adjacent residential use.

Policy 3.5.2.5(b) requires, among other things, that there be an assessment of the traffic, land use and servicing impacts of the proposed use. This includes a review of the recommended infrastructure improvements required and necessary for the site to operate. In this case, the conflict created by the noise and proposed use of a mutual access point falls short of the policy requirements in this section of the official plan.

Policy 3.5.2.5(c) requires site development information to be provided so that the approval authority can ensure high quality urban design, safe access for pedestrians and vehicles, and onsite environmental controls for not only the site but to allow for an assessment of the impact on the use on the surrounding area. In this case, the land use conflicts provided by the proposed access arrangement fails to provide for high quality urban design. In particular, the use of loading spaces on the perimeter of the site facing Sydenham's site is not appropriate. There will be high quality, high density residential uses on that site that will require regular access to the site, including in emergencies. As such, the layout does not meet this important policy objective. Moreover, the layout creates a significant and inappropriate traffic conflict and significant safety concern as there will be trucks backing into and out of spaces on the site. This is not a safe traffic layout in light of the fact that it is the only access for all of Sydenham's residential and commercial traffic as well. Sydenham's right has been secured by an access easement which Villarboit has to date refused to register in favour of Sydenham despite its legal obligation, and representations to the City, to do so. Finally, the arrangement is inappropriate for the site as it does not provide appropriate and achievable environmental controls on site, specifically by proposing that trucks will be backing up during off hours with back up alarms that will disturb the residents in the residential condominiums on Sydenham's property.

Under policy [5.1.4.3](#), the proponent of a site is to provide loading spaces that minimize danger to vehicular and pedestrian traffic. Villarboit is unable to accomplish this by placing a truck loading area into the middle of the access point to a shared commercial and residential plaza. The use in this manner is unable to coexist with the result that this policy of the plan is not met.

Finally, it is a general policy of the plan in policy [3.2.3.1](#) and [3.2.3.3](#) that all commercial development comply with urban design objectives of the plan and to provide all appropriate supporting implementation studies or documents to support their plan. In this case, Villarboit's application is deficient due to the failures identified above, including the failure to comply with the policies of section 8 of the official plan.

For these reasons, and other reasons that will be provided in oral submissions, Sydenham objects to the Villarboit proposal and asks that Council reject the proposal to introduce a grocery store. The currently proposed and approved hotel is a much better and logical use that is complimentary to the use that Sydenham will make of its site.

Yours truly,

Cassels Brock & Blackwell LLP

A handwritten signature in blue ink, appearing to be 'RU', with a long horizontal line extending to the right.

Raivo Uukkivi
Partner

RU/ves