

Staff Report

Report To: City Council
Report From: Jacklyn Iezzi, Senior Planner
Meeting Date: October 23, 2023
Report Code: CS-23-111
Subject: Recommendation Report – Official Plan Amendment (OPA 13) and Zoning By-law Amendment (ZBA 49) – 1235 and 1259 3rd Avenue East (Historic Courthouse and Jail)

Recommendations:

THAT in consideration of Staff Report CS-23-111 respecting Official Plan Amendment No. 13 and Zoning By-law Amendment No. 49 by FC Entertainment and Hospitality Inc. (Nick Ainis) through The Planning Partnership (Bruce Hall) at 1235 and 1259 3rd Avenue East, City Council:

1. In consideration of the staff reports, recommendations, and oral and written submission, including public comments received, finds that the applications, as amended, are consistent with the Provincial Policy Statement; and conform to the goals and objectives of the City's Official Plan; and represent good planning and confirms that no further notice is required.
2. Directs staff to bring forward a by-law to adopt Amendment No. 13 to the City's Official Plan (2021) and give notice in accordance with Section 22 of the *Planning Act*; and
3. Directs staff to bring forward a by-law to pass Amendment No. 49 to the City's Zoning By-law No. 2010-078, as amended and give notice in accordance with Section 34 of the *Planning Act*.

Highlights:

- Complete applications for Official Plan Amendment (OPA 13) and Zoning By-law Amendment (ZBA 49) have been submitted by FC Entertainment and Hospitality Inc. (Nick Ainis) through The Planning Partnership (Bruce Hall) for 1235 and 1259 3rd Avenue East.
- The purpose of the applications is to permit the adaptive reuse of the existing buildings and structures on the subject lands, being the historic Courthouse, Jail, Jail yards, and Governor's Residence, for an entertainment and event venue and business incubator.
- The effect of OPA 13 is to redesignate the subject lands from 'Institutional' to 'Arterial Commercial' on Schedule 'A' – Land Use of the City's 2021 Official Plan and provide site-specific policies to permit an entertainment and event venue, visitor accommodations and places of entertainment, community facilities such as a gallery, museum, and other institutional uses, and business services.
- Staff also recommend that the OPA include policies requiring retention of natural and cultural heritage features, and the provision of a detailed Parking Management Strategy, noise mitigation measures, and a detailed landscaping plan as part of a future site plan approval application.
- The effect of ZBA 49 is to rezone the subject lands from 'Institutional' (I) to 'Mixed Use Commercial' (MC) with Special Provision (14.141) within the City's Zoning By-law (2010-078, as amended) to permit uses within the MC Zone in addition to a Business Incubator and Event and Entertainment Facility. The Special Provision also proposes to require a minimum of 100 parking stalls for the development and to permit required parking to be located on-site or on another lot within 500 m of the subject lands.
- Staff recommend that the ZBA require a minimum of 115 off-street parking stalls for the proposed development to be provided on-site or on another lot within 500 m, include provisions related to electric vehicle charging and deem 3rd Avenue East as the front lot line for the purposes of the Zoning By-law.

- As a result of public consultation, a Letter of Opinion regarding Chimney Swift and a Planning Addendum Letter have been submitted and the Parking Justification Study and Land Use Compatibility (Noise) Study have been revised.
- Staff recommend approval of OPA 13 and ZBA 49.

Strategic Plan Alignment:

This report supports the delivery of Core Service.

This report also represents a legislated review process.

Climate and Environmental Implications:

This supports the objectives of the City's Corporate Climate Change Adaptation Plan by considering climate adaptation in the development of the City's strategies, plans, and policies.

Of particular note:

- The development proposes to adaptively reuse existing heritage buildings on the subject lands, including the former Grey County Courthouse, Jail, Jail yards, and Governor's Residence. Adaptive reuse helps to mitigate the impacts of climate change by conserving embodied carbon that has already been generated in the production of existing buildings, including the extraction, manufacturing, and transportation of construction materials and the construction process. Adaptive reuse further reduces emissions and solid waste that would otherwise be generated if demolition were to occur.
- The proposed development will maximize the use of existing vacant, underutilized buildings and municipal services.
- The proposed development is supported by its proximity to the City's River District and East Harbour Area, which is walkable and has access to transit and various commercial amenities.

Previous Report/Authority:

[City of Owen Sound Official Plan \(2021\)](#)

[City of Owen Sound Zoning By-law \(2010-078, as amended\)](#)

[Ontario Planning Act \(S. 21 & S. 34\)](#)

By-law No. 2014-075 – A By-law to Declare the Former Jail and Old Courthouse as Surplus to the Needs of the City of Owen Sound

Staff Report [CS-20-008](#) – Background for County Courthouse and Jail Heritage Impact Assessment and Demolition Approvals Plan

Staff Report [CS-20-031](#) – Courthouse and Jail Heritage Impact Assessment and Demolition Approvals Plan – Cost Estimate

Staff Report [CS-20-132](#) – Historic Courthouse and Jail Selective Removals Options Conclusion and Next Steps (including results of public engagement)

Staff Report [CS-21-005](#) – Evaluation Process and Notice of Intention to Dispose of the Historic Courthouse and Jail Properties

Staff Report [CS-21-082](#) – Disposition of Historic Courthouse and Jail – Results of NRFP and Next Steps

Staff Report [CS-22-029](#) – Agreement of Purchase and Sale – Courthouse and Jail – 1235 and 1259 3rd Avenue East

By-law No. 2022-040 – A By-law to Authorize the Mayor and Clerk to execute all documents necessary to complete the sale of the former Courthouse and Jail property, located at 1235 and 1259 3rd Avenue East, to Nick Ainis in Trust for a corporation to be formed.

Technical Report – OPA 13 and ZBA 49 – [CS-23-090](#)

[Public Meeting Presentations](#) – September 11, 2023 (item 6.a)

Background & Proposal:

Complete applications for Official Plan Amendment (OPA 13) and Zoning By-law Amendment (ZBA 49) have been submitted by FC Entertainment and Hospitality Inc. (Nick Ainis) through The Planning Partnership (Bruce Hall) for the adaptive reuse of the existing buildings and structures located at 1235 and 1259 3rd Avenue East, being the historic Courthouse, Jail, Jail yards, and Governor’s Residence.

Staff Report CS-23-111: Recommendation Report – Official Plan Amendment (OPA 13) and Zoning By-law Amendment (ZBA 49) – 1235 and 1259 3rd Avenue East (Historic Courthouse and Jail)

The subject lands are located on the east side of 3rd Avenue East, mid-block between 12th Street East and 13th Street East. The subject lands comprise two lots, 1235 3rd Ave E, containing the former Grey County Courthouse, and 1259 3rd Ave E containing the former County Jail, Jail Yard walls, and two-storey redbrick Governor's Residence. Together, the lands are sized 0.53 ha. The lands are a through lot with approximately 63 m of frontage on 3rd Ave E and 43 m of frontage on 4th Ave E.

The former Grey County Courthouse is designated under Part IV of the Ontario Heritage Act via By-law 1979-14 for reasons of architectural and contextual value and interest. The Jail property, including the Jail buildings, Jail Yard walls, and two-storey redbrick Governor's Residence, is listed on the City's Heritage Register.

Surrounding land uses include:

North: residential, open space (Alexandra Park)

East: residential (including Strathcona apartments), hazard lands (escarpment), open space (Victoria Park), institutional (Julie McArthur Recreation Centre, MTO)

South: institutional (City of Owen Sound fire station, Grey County EMS), residential, commercial (River District), various listed and designated properties on the City's Heritage Register.

West: residential, commercial, Georgian Bay/East Harbour, Maitland House (listed on the City's Heritage Register)

The subject lands are designated 'Institutional' in the City's Official Plan (2021) and are zoned 'Institutional' (I) in the City's Zoning By-law (2010-078, as amended). The current OP designation and zoning of the subject lands recognize their former function as a judicial precinct. The last institutional use on the property ceased operation in 2013, and the existing buildings/structures have been vacant since that time.

The subject lands are also adjacent to the East Harbour Planning Area (OP [Schedule 'A4'](#)) on the west side of 3rd Avenue East and are situated approximately 100 m northeast of the River District Planning Area (OP [Schedule 'B'](#)), south of 12th Street East on the west side of 3rd Avenue East. For the planning policy context, please see the Official Plan and Zoning Map in Schedule 'B'. The subject lands are fully described in Schedule 'C'.

The City purchased the former County Courthouse in 1960 and acquired the former Jail facility from Grey County in 2013 when the Jail ceased operations. The City declared the buildings and property surplus following their vacancy in 2014. In 2021, the City's Community Services Committee, considering report [CS-21-082](#), recommended listing the property for sale, requesting offers addressing certain criteria, including, among other matters, adherence to the heritage designation and ability to retain designated and listed heritage features.

Staff re-initiated the disposition of the Courthouse and Jail properties in accordance with the Land Sale By-law by listing the property for sale with the City's Realtor. Four (4) Agreements of Purchase and Sale (APS) were received through the listing process. Through Staff Report [CS-22-029](#), City Council accepted an offer of \$50,000 by Nick Ainis in Trust and passed By-law No. 2022-040, authorizing the documents necessary to finalize the sale.

The APS noted the City's typical development approvals process would apply to any redevelopment of the subject lands. Additionally, the APS contains critical path timelines that the purchaser must meet to demonstrate that redevelopment of the lands is continuing to progress; otherwise, the City may exercise an option to buy back the property. Specifically, the purchaser must submit formal planning applications, which are deemed complete by the City within 12 months of the signed APS, being May 27, 2023. The subject Official Plan and Zoning By-law Amendment applications were acknowledged as complete for the purposes of the APS on May 26, 2023, and on June 30, 2023, the applications were deemed as complete by the City for the purposes of the Planning Act. Therefore, redevelopment is generally on track with the critical path timelines as established in the APS.

The Proposal

The purpose of the application is to permit the adaptive reuse of the existing buildings and structures on the subject lands, being the historic Courthouse, Jail, Jail yards, and Governor's Residence, for an entertainment and event venue and business incubator. The entertainment and event venue is intended to accommodate gatherings for specific events (i.e., weddings, business & personal events, etc.) and will be supported by on-site restaurants, drinking establishments, indoor and outdoor entertainment facilities including an outdoor patio, and overnight accommodations. These uses will be available to both event participants and the general public.

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The proposal includes minor modifications to the existing buildings and structures to allow for access (e.g., elevators), reconstruction of a front portico to the Courthouse building, vehicular access from 3rd Ave E and 4th Ave E, a parking area to the east (rear) of the site containing 36 stalls, a loading dock to the north (side) of the Governor's Residence, a 405 sq. m. glass enclosed pavilion within the northern jail yard, and site landscaping. Additional parking is proposed to be provided in a different location off-site in support of the redevelopment. These matters will be further evaluated through a future Site Plan Approval application.

OPA 13

The effect of the Official Plan Amendment is to redesignate the subject lands from 'Institutional' to 'Arterial Commercial' on [Schedule 'A' – Land Use](#) of the City's 2021 Official Plan. The Arterial Commercial designation recognizes that the subject lands have frontage on a Minor Arterial roadway (3rd Avenue East). Site-specific policies are proposed to permit the following additional uses within the Arterial Commercial designation:

- An entertainment and event venue.
- Visitor accommodations and places of entertainment.
- Community facilities such as a gallery, museum, and other institutional uses.
- Business services.

As part of the revised technical studies submitted in support of the application, certain modifications to the draft OPA are recommended and are described further in the balance of this report.

ZBA 49

The effect of the Zoning By-law Amendment is to rezone the subject lands from 'Institutional' (I) to 'Mixed Use Commercial' (MC) with Special Provision (14.141) within the City's Zoning By-law (2010-078, as amended). Permitted uses in the MC Zone include 'Restaurant' and 'Drinking Establishment', among other uses. The proposed Special Provisions (14.141) would, in addition to the uses permitted in the MC zone, add a 'Business Incubator' and 'Event and Entertainment Facility' as permitted uses and define these uses generally in accordance with the following:

'Business Incubator' means an establishment that provides incubator services such as management training, networking facilities, programming,

mentorship programs, business assistance services, and office space, including 'hot desk' services, and is dedicated to nurturing the development and commercialization of start-ups, early-stage companies, and established companies (enterprises).

'Event and Entertainment Facility' means an establishment in which the main use is to accommodate gatherings for specific events, and which may also include, among its internal functions, accommodation for overnight guests, accessory retail and office, and indoor and outdoor entertainment facilities available for use by event participants, the general public, or both.

The Special Provision (14.141) also proposes to require a minimum of 100 parking stalls for the development and to permit required parking to be located on-site or within 500 m of the subject lands.

As discussed further in the balance of this report, Planning Staff are recommending certain modifications to the proposed definition of 'Event and Entertainment Facility' and that the Special Provision (14.141) require a minimum of 115 parking stalls for the development, resulting in an off-street parking ratio of one (1) space per 30.2 sq. m. of gross floor area, to be provided on-site and off-site on another lot within 500 m of the subject lands.

Submission & Process Details

As part of a complete application, the applicant has submitted the following materials for consideration:

Submission Item Title	Submission Item Detail
Planning & Urban Design Rationale Report, including Architectural Design Brief (Appendix I)	By The Planning Partnership & Boldera Architects, dated July 2023.
Planning Addendum Letter and revised Draft Amendments*	By The Planning Partnership dated October 6, 2023.
Architectural Drawing Set	By Boldera Architects, dated April 20, 2023.
Functional Servicing Brief	By C.F. Crozier & Associates Inc., dated April 2023.

Submission Item Title	Submission Item Detail
Transportation Impact Study	By C.F. Crozier & Associates Inc., dated May 2023.
Heritage Impact Assessment	By Boldera Architects, dated May 8, 2023.
Parking Justification Study*	By C.F. Crozier & Associates Inc., dated May 2023 and last revised October 2023.
Stage 1 Archaeological Assessment	By WSP Canada Inc., dated March 28, 2023.
Land Use Compatibility (Noise) Study*	By RWDI dated March 15, 2023 and last revised September 8, 2023.
Letter of Opinion – Chimney Swift*	By Terrastory Environmental Consulting Inc. dated October 6, 2023.

Studies marked with an asterisk (*) above were provided and/or revised following the public meeting held on September 11, 2023, to address comments received. The complete set of submission materials are available for viewing on the City’s website, www.owensound.ca/development.

The applicant engaged the City in the Pre-consultation process in December 2022. Subsequently, the process relating to the formal application has proceeded as follows:

Date	Step	Days
June 19, 2023	Submission of applications for OPA and ZBA, together with supporting materials and fees.	1
June 30, 2023	Letter regarding Notice of Complete Application to the applicant.	12
July 11, 2023	Request for comments sent to city staff and external agencies.	23

Date	Step	Days
July 14, 2023	Notice of Complete Application & Public Meeting mailed to property owners within 120 m of subject lands and notice posted on the subject property.	26
September 11, 2023	Public Meeting and Technical Report to Council.	85
October 6, 2023	Submission of Planning Addendum Letter with revised Draft Amendments, Letter of Opinion re Chimney Swift, and revised Parking Justification Study and Land Use Compatibility (Noise Study).	110
October 23, 2023	Recommendation Report and Amending By-laws to Council.	127

The Planning Act provides for a total of 120 days to process a combined OPA and ZBA application. The processing of the subject applications has exceeded the prescribed timeline due to Council’s schedule as well as to provide time, following the public meeting, for revising and updating the technical plans and studies submitted in support of the applications to ensure that written and oral submissions received from members of the public, City Staff and external commenting agencies could be adequately addressed.

Technical Review:

The Planning Act and the City’s Official Plan establish criteria for evaluating an application to amend the City’s Official Plan and Zoning By-law. In making land use planning decisions, Council must consider the matters of Provincial interest as described in Section 2 of the Planning Act. Section 3 of the Planning Act also prescribes that the decision of Council on a planning matter shall be consistent with the Provincial Policy Statement.

Further to matters of provincial interest and the PPS, the City’s Official Plan (Sec. 9.3.1) provides criteria that shall be applied when reviewing applications to amend the Official Plan, including:

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- Consistency with the goals, objectives, and policies of the County Official Plan and City Official Plan.
- Consistency with the Niagara Escarpment Plan.
- Impact on the provision and demand for municipal services, infrastructure, and facilities.
- Adequacy of the proposed hard and soft services in accordance with the servicing policies of the City's Official Plan.
- Impact on surrounding land uses, the transportation system, municipal services, and community amenities and services.
- Impact on cultural and/or natural heritage features and,
- Any other information as determined appropriate and applicable by the City or other agency.

Sec. 9.1.2 of the City's Official Plan further provides that the City may amend the Zoning By-law where sufficient justification exists in the opinion of Council. Amendments must conform to the policies of the Official Plan. When considering an amendment, the City should consider the Official Plan's goals, objectives, and policies. Additionally, decisions should consider the compatibility with adjacent uses of land and servicing.

The application is subject to review by the City's Development Team, as well as external commenting agencies. Public notice of the application was given in accordance with the Planning Act, and public input has been included in the overall process. All applicable policies, standards, and comments received and reviewed below:

A: Provincial Policy Statement

In making land use planning decisions, Council must consider the matters of Provincial interest as described in Section 2 of the Planning Act. The matters described include, but are not limited to:

- The conservation of features of significant architectural, cultural, historical, archaeological, or scientific interest.
- The adequate provision and distribution of educational, health, social, cultural, and recreational facilities.

- The promotion of development that is designed to be sustainable, to support public transit, and to be oriented to pedestrians.
- The promotion of built form that is well-designed, encourages a sense of place and provides for public spaces that are of high quality, safe, accessible, attractive, and vibrant.
- The mitigation of greenhouse gas emissions and adaptation to a changing climate.

The 2020 Provincial Policy Statement (PPS) provides direction on matters of provincial interest. Municipal decisions on planning matters are required to be consistent with the PPS.

Provincial Direction on Growth

The PPS Vision for the long-term prosperity and social well being of Ontario focuses on growth and development within settlement areas and recognizes that land use must be carefully managed. Strong, liveable, and healthy communities promote and enhance human health and social wellbeing, are economically and environmentally sound, and are resilient to climate change. The PPS directs development to fully serviced, designated settlement areas and requires contiguous development that minimizes land consumption and servicing costs.

The subject lands are within a fully serviced settlement area. The proposal for adaptive reuse of vacant, underutilized heritage buildings having access to full municipal services, public transit, parks, and amenities supports the type of efficient, cost-effective development within an urban municipality that is envisioned by the PPS.

Provincial Direction on Cultural Heritage

Section 2.6 of the PPS requires the conservation of **built heritage resources** and significant cultural heritage landscapes. The PPS defines built heritage resources as meaning, “a building, structure, monument, installation or any manufactured or constructed part or remnant that contributes to a property’s cultural heritage value or interest as identified by a community, including an Indigenous community. Built heritage resources are located on property that may be designated under Parts IV or V of the Ontario Heritage Act, or that may be included on local, provincial, federal and/or international registers”.

Furthermore, development and site alteration on lands adjacent to **protected heritage property** is not permitted, except where the proposed development and site alteration has been evaluated, and it has been demonstrated that the **heritage attributes** of the protected heritage property will be conserved. Under the PPS, protected heritage property includes property that is designated under Part IV, V, or VI of the Ontario Heritage Act. Heritage attributes include the principal features or elements that contribute to a protected heritage property's cultural heritage value or interest and may include the property's built, constructed, or manufactured elements, as well as natural landforms, vegetation, water features and its visual setting (e.g., significant views or vistas to or from a protected heritage property). The definition of adjacent lands, when used in evaluating potential impacts of development and site alteration on protected heritage property, includes lands that are contiguous or as otherwise defined in the municipal official plan.

As noted within the 'Background' section of this report, the former Grey County Courthouse is designated under Part IV of the Ontario Heritage Act via By-law 1979-14 for reasons of architectural and contextual value and interest. The Jail property, including the Jail buildings, Jail Yard walls, and two-storey redbrick Governor's Residence, is listed on the City's Register of Properties of Cultural Heritage Value or Interest (the "Heritage Register"). The Courthouse, Jail, Jail walls, and two-storey redbrick Governor's Residence are all considered to be built heritage resources within the meaning of the PPS. In addition, the Courthouse is considered a protected heritage property within the meaning of the PPS because it is designated under Part IV of the OHA.

A [Heritage Impact Assessment \(HIA\)](#), Architectural Design Brief, and Architectural Drawing Set including a preliminary demolition and removals plan (attached as Schedule 'D'), have been submitted in support of the subject OPA and ZBA applications. As demonstrated by the HIA and preliminary demolition and removals plan, the proposed development is seeking to achieve the highest standard of heritage conservation, as it does not contemplate the demolition or removal of any building or structure of cultural heritage value. The development proposes to retain all built heritage resources on the property, including the two-storey redbrick Governor's Residence.

A summary of the modifications proposed to the Courthouse and Jail properties is provided within Section 4.0 of the HIA. The proposed development includes some minor demolition of miscellaneous structures and outbuildings on the property that have no heritage value, including removal of the following:

- The single storey attached garage to the north (side) of the Governor's Residence and southern brick addition connecting to the 1854 Jail.
- An accessory structure within the southern Jail yard.
- Fire escapes on the north and south side facades.

The development also proposes new construction and site alteration summarized generally as follows:

- Construction of a new, 409 sq. m. glass enclosed pavilion within the northern Jail yard.
- Replacement of the brick connection between the Governor's Residence and 1854 Jail for a glass wall.
- Restoration of a portico to the front (west) façade of the Courthouse, including a glass canopy extension to provide protection from the elements.
- Accessibility upgrades to meet Ontario Building Code requirements, including the construction of an elevator on the rear (east) façade of the 1869-1877 three-storey Jail building.
- Exterior landscaping upgrades including:
 - Modifications to the 3rd Avenue East lawn area, based on historical photo documentation.
 - A discovery walkway covered by a glass canopy and 526 sq. m. recreational garden within the southern Jail yard.
 - A 223 sq. m. cocktail garden within the central Jail yard, to the rear of the 1869-1877 three-storey Jail building.
- Construction of a parking area to the rear (east) of the site containing 36 stalls.

An assessment of the impacts of the proposed construction activity on the heritage value of the property is provided within Section 5.0 of the HIA. The development is anticipated to have minimal impact on the heritage value and character of the original structures. In many cases, the proposed construction activity is anticipated to have positive impacts on the cultural heritage value of the property by reconstructing historical landscaping design features and missing heritage elements that previously existed on the subject lands and removing miscellaneous outbuildings and structures (e.g., fire escapes) that have no heritage value.

In summary, the proposed development demonstrates the highest level of conservation of built heritage resources and does not anticipate any negative impacts to the heritage attributes of the designated Courthouse building, consistent with the policies of the PPS. The cultural heritage policies of the City's Official Plan are discussed further in the balance of this report and provide greater specificity as it relates to the definition of adjacent lands to protected heritage property.

Provincial Direction on Archaeology

Policy 2.6.2 of the PPS prohibits development and site alteration on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.

A [Stage 1 Archaeological Assessment](#) completed by WSP Inc. dated March 28, 2023, has been submitted in support of the proposed development. The study recommends that a Stage 2 Archaeological Assessment be completed for the manicured lawn areas fronting 3rd and 4th Avenue East and the Jail yards. The study notes that although the Grey County Jail was the site of three executions, there is no evidence of any human burials occurring on the property and the risk of encountering human remains as part of a Stage 2 assessment is low.

The provision of a Stage 2 Archaeological Assessment will be addressed as part of a future site plan approval application.

Provincial Direction on Servicing

The development is required to demonstrate that the subject lands can be adequately serviced with full municipal water and wastewater services and are designed with stormwater management best practices to ensure

consistency with Section 1.6.6 of the PPS. A [Functional Servicing Brief](#) was submitted in support of the proposed OPA and ZBA applications and is discussed further in the 'Official Plan' section of this report. In summary, full municipal servicing with existing infrastructure capacity is available for the proposed development. Stormwater will be conveyed to an existing storm sewer on 12th Street East, which outlets directly to Georgian Bay. Post-development peak flows will be controlled to meet the existing pre-development peak flows through use of stormwater management facilities on site, providing the required volume of storage. The development will incorporate measures to provide enhanced protection to treat stormwater runoff from the use through an end-of-pipe control.

Provincial Direction on Natural Heritage

The policies of the PPS require that natural features and areas be protected for the long term. Policy 2.1.7 of the PPS prohibits development and site alteration within habitat of endangered and threatened species, except in accordance with provincial and federal requirements.

As part of the Pre-consultation process completed in 2022, comments were received from the Grey Sauble Conservation Authority (GSCA), which indicate the presence of natural heritage features on the subject property associated with habitat of threatened or endangered species. Specifically, Natural Heritage Information Centre and GSCA records indicate an observance of Chimney Swifts nesting on the subject property, which is a threatened bird species. It merits note that the subject OPA/ZBA applications were circulated to the Ministry of Environment, Conservation, and Parks (MECP) as part of the City's typical development review process on August 18, 2023. No comments from MECP on the applications have been received to date.

A [Letter of Opinion by Terrastory Environmental Consulting Inc. dated October 6, 2023](#), has been submitted in support of the proposed OPA and ZBA applications. The letter outlines the provincial and federal requirements of the Endangered Species Act (ESA), Federal Species at Risk Act (SARA), and the Federal Migratory Birds Convention Act that are applicable to the proposed development should the function of the chimney supporting Chimney Swift nesting and/or roosting activity be impaired.

The preliminary demolition and removals plan submitted in support of the OPA/ZBA applications does not propose the demolition of any chimney. Furthermore, the Letter of Opinion confirms that no exterior or interior work to the chimneys is proposed at this time. Other pertinent details including the extent, timing, and duration of interior and exterior work in the vicinity of the subject chimney are also unknown. As discussed further in the 'Official Plan' section of this report, any potential impacts to chimney swift, including the recommendations outlined within the submitted Letter of Opinion, can be effectively considered, and implemented through the draft OPA and subsequent site plan approval process to ensure consistency with Policy 2.1.7 of the PPS.

Provincial Direction on Economic Prosperity

Section 1.7 of the PPS states that long-term economic prosperity should be supported by:

- promoting opportunities for economic development and community investment-readiness;
- optimizing the long-term availability and use of land, resources, infrastructure, and public service facilities;
- maintaining and, where possible, enhancing the vitality and viability of downtowns and main streets;
- encouraging a sense of place by promoting well-designed built form and cultural planning and by conserving features that help define character, including built heritage resources and cultural heritage landscapes;
- providing opportunities for sustainable tourism development;
- minimizing negative impacts from a changing climate and considering the ecological benefits provided by nature;

As discussed further in the balance of this report, the proposed development will contribute to achieving many of the above noted objectives that contribute to long-term economic prosperity, as outlined in the PPS.

Specifically, the proposed development will:

- Strengthen the City’s role as the regional centre for business, culture, and tourism and will support opportunities to increase conference capacity within the City.
- Optimize the long-term availability and use of lands and existing, vacant underutilized buildings that have access to full municipal services, transit, and public service facilities.
- Support the vitality and viability of the City’s River District and Harbour Area as being the social, cultural, business, and recreational focal point of the City.
- Encourage a sense of place, promote well-designed built form, and minimize the negative impacts of a changing climate by conserving and adaptively reusing existing built heritage resources including the historic Courthouse, Jail, Jails yards and walls, and Governor’s Residence.

The proposal is consistent with the policy direction provided by the PPS.

B: County of Grey Official Plan (2019)

The entire City of Owen Sound is designated as a ‘Primary Settlement Area’ in the County of Grey Official Plan (County OP). The County OP requires that settlement areas with full municipal services are to be the focus of the majority of growth within the County. The County OP promotes a full range of residential, commercial, industrial, recreational, and institutional land uses within Primary Settlement Areas. Land use policies and development standards are to be in accordance with the local Official Plan.

The County has been consulted on the proposal and County staff have no objection to the application.

The application conforms to the policies of the County OP.

C: City of Owen Sound Official Plan

The subject property is designated ‘Institutional’ by the City’s 2021 Official Plan (OP). The current land use designation recognizes the former function of the subject lands as a judicial precinct. The last institutional use on the property ceased operation in 2013, and the existing buildings/structures have been vacant since that time.

C1: Official Plan Amendment No. 13

As described within the 'Background' section of this report, the purpose of the application is to permit the adaptive reuse of the historic Courthouse, Jail, Jail yards, and Governor's Residence for an entertainment and event venue and business incubator. The entertainment and event venue is intended to accommodate gatherings for specific events (i.e., weddings, business & personal events, etc.) and will be supported by on-site restaurants, drinking establishments, indoor and outdoor entertainment facilities including an outdoor patio, and overnight accommodations. These uses will be available to both event participants and the general public.

The effect of the Official Plan Amendment is to redesignate the subject lands from 'Institutional' to 'Arterial Commercial' on Schedule 'A' – Land Use of the City's 2021 Official Plan. The Arterial Commercial designation recognizes that the subject lands have frontage on a Minor Arterial roadway (3rd Avenue East). Site-specific policies are proposed to permit the following additional uses within the Arterial Commercial designation:

- An entertainment and event venue.
- Visitor accommodations and places of entertainment.
- Community facilities such as a gallery, museum, and other institutional uses.
- Business services.

The Institutional policies of the Official Plan (Sec. 3.10.2.4) provide that where an existing use in an Institutional designation ceases, Council may consider the redesignation of the site to an appropriate alternative designation after examination of the following options for part or all of the site:

a. The use of the site for a suitable alternative institutional purpose.

The last institutional use on the property ceased operation in 2013 and the lands were subsequently declared surplus to the needs of the City. Through the City's land sale process, adaptive reuse of the site for suitable alternative institutional purposes including a long-term care facility and an art gallery were explored and deemed unfeasible.

b. Acquisition of the site or a portion of it by the City for institutional or open space, based on the park needs of the surrounding area.

The lands were deemed surplus to the needs of the City in 2014 and are not required for institutional or open space purposes. In order to support an open space use on the site, the existing heritage buildings/structures would likely require demolition, in whole or in part, which is contrary to the policies of the PPS and the City's Official Plan that require conservation of built heritage resources.

Furthermore, the surrounding neighbourhood is adequately serviced by a variety of existing City parks and trail systems including:

- The East Harbour Waterfront Trail.
- J. Irvine Brown Children's Park at the Bayshore Community Centre, designated as a City Park and generally intended to provide unique, specialized recreational facilities and services for the whole community.
- Alexandra Park, designated as a Neighbourhood Park and generally intended to service a local neighbourhood area of 2,000 to 3,000 people.
- Timber McArthur Park, designated as a Community Park and generally intended to provide larger recreational services for a community of between 4,000 and 10,000 people.

c. The use of the site to meet housing targets, including the consideration of partnerships for affordable housing.

The subject lands have been deemed surplus to the needs of the City and subject to the City's land sale process for nearly a decade. Through the land sale process, Staff are not aware of any proposal to adaptively reuse the site for housing/affordable housing.

Furthermore, the County of Grey has completed a housing and homelessness strategy, which identifies targets for the creation of affordable housing units. The County plan establishes a target of 30 per cent (30%). Since 2018, the City has issued Building Permits for the creation of 496 dwelling units. Approximately 23 percent (113

units) of the units issued under these Building Permits in the last five years have been affordable as per the definition of the PPS. This has included units within the Odawa Heights apartment building, 30 units at Strathcona apartments, and eight (8) units at the new 28th Street West apartments.

Sec. 3.1.5 of the City's Official plan specifies that the City will support the integration of attainable housing units within the existing community fabric in all designations and Planning Areas where residential uses are permitted. County and City Staff continue to explore affordable housing options with developers and ways to increase the supply of affordable and attainable housing stock in Owen Sound as new development occurs.

Furthermore, the County of Grey recently undertook a housekeeping amendment to the County Official Plan (COPA 11) to update residential and employment growth forecasts. The updated projections anticipate a total of 1,130 new households in Owen Sound by 2046. The City is on track for meeting this growth target based on new residential development approved to date. In 2023 alone, City Planning Staff have processed Site Plan Approval applications for new residential developments totalling 1,189 units.

As demonstrated in the balance of this report, the proposed development will support other important goals, objectives, and policies of the City's Official Plan related to tourism, economic development, and heritage preservation.

d. The subject property is designated under the Ontario Heritage Act or is listed on the City's Heritage Register, and the proposal represents an adaptive reuse option that ensures longevity for the heritage asset.

The former Grey County Courthouse is designated under Part IV of the Ontario Heritage Act via By-law 1979-14 for reasons of architectural and contextual value and interest. The Jail property, including the Jail buildings, Jail Yard walls, and two-storey redbrick Governor's Residence, is listed on the City's Heritage Register.

As noted within the PPS section and discussed further within the 'Cultural Heritage' section below, the proposed development is seeking

to achieve the highest standard of heritage conservation, as it does not contemplate the demolition or removal of any building or structure of cultural heritage value. The development proposes to retain all built heritage resources on the property and will therefore ensure the longevity of these heritage assets.

Arterial Commercial Designation

The development is proposing adaptive reuse of the site for a mix of commercial uses including an entertainment and event venue and a business incubator which are not among the uses permitted under the current Institutional land use designation. The effect of the OPA is to redesignate the subject lands from 'Institutional' to 'Arterial Commercial' on [Schedule 'A' – Land Use](#) of the OP to permit the commercial uses proposed.

The Arterial Commercial designation is intended to provide for local convenience shopping and certain specialized uses. Retail or service businesses of a local convenience nature including but not limited to, restaurants and food services, as well as specialized uses such as hotel accommodation and professional offices, are among the uses permitted in the Arterial Commercial designation.

The application also proposes to add a site-specific policy (3.7.5) to permit the following additional uses on the subject lands as part of the adaptive reuse:

- An entertainment and event venue.
- Visitor accommodations and places of entertainment.
- Community facilities such as a gallery, museum, and other institutional uses.
- Business services.

The proposed Arterial Commercial designation is appropriate given the site's context and location within the City that is surrounded by a mix of land uses and has frontage and access on a Minor Arterial/County Road. Specifically, the subject lands have approximately 63 m of frontage on 3rd Avenue East, which is designated as Minor Arterial/County Road on [Schedule 'C'](#) of the OP. Adjacent lands to the north and east are designated as Residential. The west side of 3rd Avenue East is designated as Waterfront Mixed Use and is within

the East Harbour Planning Area as identified on [Schedule 'A4'](#) of the OP. Adjacent lands to the south are designated Institutional, in recognition of the Grey County EMS station and the City fire hall. Lands south of 12th Street East are designated River District Commercial on the west side of 3rd Avenue East, as identified on [Schedule 'B'](#) of the OP, and Residential on the east side.

The Arterial Commercial policies of the OP state that individual uses should be limited in size so as to minimize their influence on the immediate neighbourhood, limit their traffic generating potential, and maintain the planned function of the area (policy 3.7.2.1).

The proposed development is limited to the floor area of the existing buildings, with the exception of the proposed enclosure of the northern Jail yard. The proposed entertainment and event venue and business incubator uses are generally proposed to be contained either indoors or within the confines of the Jail yard walls to minimize their influence on the immediate neighbourhood. Additionally, a [Land Use Compatibility \(Noise\) Study](#) has been submitted in support of the proposed development and is discussed further below. In summary, the Noise Study demonstrates that sound levels due to the facility, based on the predictable worst-case scenario (all uses operating at full capacity at the same time), meet provincial guidelines at all surrounding receptors. Furthermore, the existing Jail yard walls to be maintained are expected to meet the requirements for a noise barrier and will significantly reduce noise from the outdoor event space at surrounding residences.

As it relates to limiting the traffic generating potential of the proposed development, a [Traffic Impact Study \(TIS\)](#) has been submitted in support of the proposed development and is discussed further in the 'Traffic Impact' section of this report. In summary, the TIS demonstrates that there is capacity of the road network to accommodate trips generated by the proposed development as well as anticipated background traffic growth. The main entrance to the site/drop off area is proposed via 3rd Avenue East which is classified as a Minor Arterial/County Road on Schedule 'C' of the OP and generally intended to accommodate higher traffic volumes.

Lastly, the subject lands are adjacent to the East Harbour Planning Area as identified on [Schedule 'A4'](#) of the OP and are 100 m northeast of the River District Commercial Area as identified on [Schedule 'B'](#). The East Harbour

Planning Area is intended to accommodate a mix of land uses at higher development densities that support redevelopment and tourism opportunities and encourage a year-round active waterfront (Sec. 4.4.2). Similarly, the River District is intended to provide a range of uses and function as the social, cultural, business, and recreational focal point of the City. The Tourism policies of the OP (Sec. 7.5), promote and support the revitalization of the River District area as a unique tourist destination and regional tourism hub, offering unique services and opportunities to regional visitors on a year-round basis, including accommodation and food service, entertainment and sport, festivals and events, and conference facilities. The proposed development adds to the range and mix of land uses that are existing within a 500 m radius of the site. The proposed entertainment and event venue, restaurant, and speakeasy (drinking establishment) will support opportunities for tourism and encourage a year-round active waterfront, thereby maintaining and enhancing the planned function of the area.

Cultural Heritage

The policies of the City's Official Plan implement the PPS and require that built heritage resources be conserved. As noted within the PPS section of this report, an [HIA](#) and preliminary demolition and removals plan have been submitted in support of the OPA/ZBA which demonstrate that the development is seeking to achieve the highest standard of heritage conservation as it does not contemplate the demolition or removal of any building or structure of cultural heritage value. The development proposes to retain all built heritage resources on the property including the Courthouse, Jail, Jail yard walls, and Governor's Residence. The submitted HIA adequately assesses the impacts of the proposed construction activity on the heritage value of the property and concludes that the development is anticipated to have minimal impact on the heritage value and character of the original structures. In many cases, the proposed construction activity is anticipated to have positive impacts on the cultural heritage value of the property by reconstructing historical landscaping design features and missing heritage elements that previously existed on the subject lands and removing miscellaneous outbuildings and structures (e.g., fire escapes) that have no heritage value.

It merits note that in 2018, the City published a request for proposals for a Heritage Impact Assessment (HIA) and Demolitions Approvals Plan for the

Courthouse and Jail properties. Taylor Hazell Architects (THA) was retained by the City for the completion of the HIA and Demolition Approvals Plan. THA completed a [Cultural Heritage Evaluation Report \(CHER\)](#) for the Jail property and [an HIA](#) was prepared to assess the impact of four options including the removal of one or more of the buildings on the Jail property as follows:

1. Remove the Governor's Residence and miscellaneous outbuildings. Retain and conserve in a mothballed state, the 1854 and 1869 Jail and Jail Yard walls.
2. Remove the Governor's Residence, miscellaneous outbuildings and the 1854 Jail. The 1869 Jail and Jail Yard walls would be retained and conserved in a mothballed state.
3. Remove the Governor's Residence, miscellaneous outbuildings, the 1854 Jail and some or all of the Jail Yard walls. The 1869 Jail would be retained and conserved in a mothballed state.
4. Remove all buildings from the property, including the Jail Yard walls.

The results of the CHER and HIA completed by THA were presented to Community Services Committee on January 15, 2020, and subsequently City Council, through Staff Report [CS-20-008](#). Through this report, Community Services Committee also requested that Council consider a fifth option of retaining all of the Jail buildings (status quo). The development proposes to implement this option which was identified as the preferred option and most important to community members through public consultation undertaken by City Staff and THA as part of the development of the HIA.

As noted within the PPS section of this report, the historic Courthouse, Jail, Jail walls, and Governor's Residence are all considered to be built heritage resources within the meaning of the PPS and the City's OP though, the properties have varying levels of protection provided under the Ontario Heritage Act (OHA):

Courthouse – 1235 3rd Avenue East

The historic Courthouse is located on lands municipally known as 1235 3rd Avenue East. The Courthouse is designated under Part IV of the OHA via By-law No. 1979-14 for reasons of architectural value and interest and for the events that occurred there. Its exterior walls, windows, roof, trim and detail

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as well as select interior features are listed in a Statement of Significance as heritage attributes. Due to its designated heritage status, the Courthouse is also considered to be a protected heritage property within the meaning of the PPS and the City's OP.

As a designated heritage property, the historic Courthouse is protected from unsympathetic alterations that are likely to affect the property's heritage attributes in accordance with Section 33 of the OHA. A detailed Conservation Plan for the Courthouse will be addressed as part of a future site plan approval application and a Heritage Permit for any alterations will be required prior to the issuance of a Building Permit, in accordance with the requirements of the OHA.

Jail & Governor's Residence – 1259 3rd Avenue East

The Jail, Jail walls, and Governor's Residence are visually and physically linked to the historic Courthouse, however, are located on a separate property municipally known as 1259 3rd Avenue East. The entire property is listed on the City's Heritage Register.

Listing a property on the Heritage Register provides interim protection of a heritage resource from demolition and is generally seen as the first step that a municipality should take in the identification and evaluation of a property that may warrant some form of heritage conservation, recognition, and long-term protection such as designation. The OHA does not provide any form of protection for listed heritage properties against alteration.

Listing a property on the Heritage Register does not necessarily mean that the property will be subsequently "designated", but designation generally happens within one of three scenarios:

1. A property owner gives notice of an intention to demolish the listed building, in whole or in part, and staff evaluation recommends designation.
2. A listed property is included within a planning application and subsequent evaluation directs appropriate conservation measures and designation within the planning approvals process.
3. A property owner wishes to take advantage of one of the City's incentive programs (e.g., Heritage Property Tax Relief) and request further staff evaluation and designation, as appropriate.

The proposed development falls within scenario #2 noted above, therefore necessitating further evaluation of the Jail property using the criteria prescribed by [Ontario Regulation 9/06 – Criteria for Determining Cultural Heritage Value or Interest](#) (O. Reg. 9/06) under the OHA and consideration for designation of the property under Part IV of the OHA.

The [CHER](#) completed by THA for the Jail property includes a draft Statement of Cultural Heritage Value. The CHER provides an evaluation of the Jail buildings against O. Reg. 9/06 and concludes that the Jail buildings, including the Jail yard walls, exceed the minimum criteria for determining cultural heritage value or interest and therefore warrant further protection through designation under the Ontario Heritage Act. The Governor’s Residence was noted to meet the minimum criteria prescribed under O. Reg. 9/06 at the time of completion of the CHER.

Similarly, the [HIA prepared by Boldera Architecture](#) submitted in support of the proposed redevelopment reiterates the findings and recommendations of the THA study. The HIA provides a statement of cultural heritage value for the Courthouse, Jail, and Governor’s Residence as whole that acknowledges the contextual, historical, and physical value of the judicial precinct.

In consideration of the work completed by THA and the HIA submitted in support of the proposed development, Planning Staff recommend that the OPA include the following policy that recognizes the cultural heritage value of the Courthouse and Jail properties and allows the City, through the development approvals process, to require the Owner to enter into agreements with the City which may require designation of the Jail and/or a heritage conservation easement to provide protection of these built heritage resources over the long-term.

Lands municipally known as 1235 and 1259 3rd Avenue East contain the historic Courthouse, Jail, Jail yards and walls, and two-storey redbrick Governor’s Residence. The City recognizes the architectural, historical, and contextual value of these properties and their role as a former judicial precinct that is important for defining and maintaining the City’s unique cultural heritage. Through the development approvals process, the City may require that the Owner enter into agreements with the City to provide protection for these built heritage resources, which may include designation under Part IV of the Ontario Heritage Act and/or a heritage conservation easement, pursuant to the policies of Section 7.1.2 of this Plan.

Staff recommend that an agreement providing for the designation of the Jail under Part IV of the OHA and/or a heritage conservation easement be addressed as part of a future Site Plan Approval application, as a provision within the required Site Plan Agreement. This approach will balance the requirement for conservation of the built heritage resources in accordance with the policies of the PPS and the City's OP while providing appropriate flexibility to the property owner as redevelopment occurs. It merits note that the proponent has indicated a desire to retain all of the built heritage resources on the property, as demonstrated through the submitted HIA and preliminary demolitions and removals plan and is not opposed to the designation of the Jail property as a formal recognition of its heritage status. Designation of both the Courthouse and Jail properties will allow the property owner to unlock additional tax and capital incentive programs available under the City's Community Improvement Plan, including the Heritage Property Tax Relief Program and Façade and Structural Improvement Grant, to support redevelopment and ensure its long-term protection as a significant cultural heritage resource.

Adjacent Lands to Protected Heritage Property

The policies of the PPS and the City's OP permit development and site alteration on adjacent lands to protected heritage property where the proposed development and site alteration has been evaluated, and it has been demonstrated, through the preparation of an HIA, that the heritage attributes of the protected heritage property will be conserved (Sec. 7.1.3.7). The City's OP defines adjacent lands, when used in evaluating potential impacts of development and site alteration on protected heritage property as:

- a. Contiguous (abutting) properties;
- b. Properties within 50 m of a protected heritage property;
- c. A property that is separated from a heritage property by a narrow strip of land used as a municipal road, right-of-way, walkway, greenspace, park and/or easement and where the recognized heritage attributes of a protected property would be impacted by the proposed development and/or site alteration; and/or

- d. Those properties whose heritage attributes are identified within the following:
 - i. A designation by-law or a heritage easement enacted under the Ontario Heritage Act.
 - ii. A Heritage Conservation and Interpretation Plan or a Heritage Conservation District Plan.
 - iii. City of Owen Sound Official Plan.
 - iv. Properties listed on the City's Heritage Register that may be impacted by the proposed development or site alteration.

As noted above, the Jail and Governor's Residence at 1259 3rd Avenue East are adjacent and physically connected to the Historic Courthouse at 1235 3rd Avenue East, designated under Part IV of the Ontario Heritage Act. The Jail and Governor's Residence are therefore considered to be 'adjacent lands' to protected heritage property (the Courthouse).

Any new development or site alteration proposed on the Jail property must be evaluated through an HIA and it must be demonstrated that the heritage attributes of the protected heritage property will be conserved in accordance with the policies of the PPS and the City's OP. As noted above, an HIA was submitted in support of the OPA/ZBA to assess the impacts of the proposed construction activity on the heritage value of the property. The HIA concludes that the development is anticipated to have minimal impact on the heritage value and character of the original structures and in many cases, positive impacts on the cultural heritage value of the property are anticipated. Additionally, as the original buildings are proposed to be retained, there are limited exterior alterations proposed to the Jail property that would result in an impact to the heritage attributes of the Courthouse building. As it relates to the proposed site alteration and construction activity on the 1854 Jail, 1869-1877 Jail, and Governor's Residence, the HIA notes:

- The parking area proposed at the rear (east) of the property and associated landscaping is not anticipated to have any impact to the heritage value and character of the original structures.
- Landscaping alterations proposed within the front yard (fronting 3rd Ave E) will reconstruct historical features that previously existed on

the property and are therefore anticipated to have a positive impact on the heritage value and character of the original structures.

- The replacement of the existing redbrick connection between the Governor's Residence and the north wall of the 1854 Jail is anticipated to have minimal impact on the heritage value and character of the original structures. In the opinion of Planning Staff, the proposed glass connection between the Governor's Residence and 1854 Jail is more sympathetic to the heritage character of the property as it provides a clearer distinction between the buildings, contributing to their recognition as structures of their own time, consistent with the [Ministry of Heritage, Sport, Tourism, and Culture Industries eight guiding principles in the conservation of built heritage resources](#). Additionally, the existing redbrick connection contrasts with and detracts from the heritage value of the limestone walls of the Courthouse building.
- The covered Discovery Walkway within the southern Jail Yard and the glass enclosed pavilion within the northern Jail Yard are anticipated to have a medium impact to the heritage value and character of the original structures. Planning Staff anticipate these impacts would primarily apply to the Jail buildings and structures including the 1854 Jail, 1869-1877 Jail, and Jail yard walls. The proposed covered walkway and pavilion are located to the rear (east) of the main Courthouse building and do not detract from the building's heritage attributes including the limestone walls, windows, roof, trim and detail, nor interrupt the main view of the building from 3rd Avenue East. The proposed materials of the walkway and pavilion (glass) are sympathetic to the heritage character of the property.

Archaeological Resources

The policies of the City's OP implement the PPS and require that development and site alteration only be permitted on lands containing archaeological resources or areas of archaeological potential if the significant archaeological resources have been conserved by removal and documentation or by preservation on site (policy 7.1.6.2). The City may require studies, such as an Archaeological Assessment Report, prepared by a qualified person, to identify and protect archaeological resources from

destruction or alteration through development or public works operations (policy 7.1.6.3).

As noted within the PPS section of this report, a [Stage 1 Archaeological Assessment](#) completed by WSP Inc. dated March 28, 2023, has been submitted in support of the proposed development. The study recommends that a Stage 2 Archaeological Assessment be completed for the manicured lawn areas fronting 3rd and 4th Avenue East and the Jail yards. The Stage 1 Archaeological Assessment has been entered into the Ontario Public Register of Archaeological Reports by the Ministry of Citizenship and Multiculturalism (MCM).

Planning Staff recommend that the provision of the Stage 2 Archaeological Assessment, and acceptance by MCM, be addressed as part of a future site plan approval application. This approach will continue to ensure that archaeological potential is evaluated prior to development or site alteration taking place, consistent with Sec. 7.1.6 of the OP.

Natural Heritage

The policies of the City's OP implement the PPS and require that natural features and areas be protected for the long term. Section 6.1.5 of the OP requires that where there is an application for development purposes to redesignate Hazard Lands, Open Space, or any significant natural heritage feature, the City shall require the preparation of any Environmental Impact Study (EIS). The City may consider waiving the requirement for the preparation of an EIS where one or more of the following applies:

- a. a development is subject to a duplicate or similar environmental assessment process.
- b. A development is minor in nature or,
- c. The site conditions for a development are such that the preparation of an EIS would serve no useful purpose for the protection of significant environmental features.

As noted within the PPS section of this report, as part of the Pre-consultation process completed in 2022, comments were received from the Grey Sauble Conservation Authority (GSCA), which indicate the presence of natural heritage features on the subject property associated with habitat of threatened or endangered species. Specifically, Natural Heritage Information

Centre and GSCA records indicate an observance of Chimney Swifts nesting on the subject property, which is a threatened bird species.

A [Letter of Opinion by Terrastory Environmental Consulting Inc. dated October 6, 2023,](#) has been submitted in support of the proposed development. The letter outlines the provincial and federal requirements of the Endangered Species Act (ESA), Federal Species at Risk Act (SARA), and Federal Migratory Birds Convention Act that are applicable to the proposed development should the function of the chimney supporting Chimney Swift nesting and/or roosting activity be impaired. In the opinion of Planning Staff, the submission of an EIS would be duplicate to the requirements of the provincial and federal permitting systems already in place.

Furthermore, the development does not propose the demolition of any chimney nor is any exterior or interior work to the chimney proposed at this time. Other pertinent details including the extent, timing, and duration of interior and exterior work in the vicinity of the subject chimney are also unknown. For these reasons, Staff recommend that any potential impacts to chimney swift, including the recommendations outlined within the submitted Letter of Opinion, be considered and implemented through a future site plan approval application, once sufficient details are available for review. Through the site plan approval process, the provision of an Effects Assessment that considers the following, as outlined within the Letter of Opinion, will be required at a minimum:

- Any potential interior or exterior alterations to the chimney.
- Any demolition of portion of the building in the vicinity of the chimney.
- Any works to the interior and exterior of the building in the vicinity of the chimney.
- Any works requiring roof access in the vicinity of the subject chimney.
- Any works surrounding the building in the vicinity of the chimney.
- The extent, timing, and duration of all works described above, along with expected noise and vibration, which would be expected to emanate from such works.

Through the required Site Plan Agreement, required as a condition of site plan approval, Staff will require that the applicant obtain an ESA permit from MECP and/or a Species at Risk Act (SARA) permit from Canadian Wildlife

Service (CWS), and any other necessary approvals from provincial and/or federal agencies, prior to any work commencing that would affect Chimney Swift individuals or the function of the chimney itself as Chimney Swift habitat.

Planning Staff note that through the public consultation process, written comments have been received which note the use of the existing Courthouse chimney as a roost site for Chimney Swift and expresses concerns with the lack of information provided in support the application to address this matter.

The submitted Letter of Opinion has been provided, in part, to address comments received by members of the public through the consultation process. Furthermore, to formally recognize the presence of the Chimney Swift roost on the subject lands and ensure that future Planning Act applications and redevelopment are sensitive to this natural heritage feature, Planning Staff recommend that the following policy be included within the draft Official Plan Amendment:

The presence of natural heritage features associated with habitat of threatened species has been identified on lands municipally known as 1235 3rd Avenue East, containing the historic Courthouse. Specifically, a Chimney Swift roost has been observed on the subject property, which is identified as a threatened bird species by the provincial Endangered Species Act and federal Species at Risk Act. Redevelopment of these lands shall consider the retention of the existing chimney to the greatest extent feasible for the benefit of Chimney Swift. Any demolition, removal, or alteration to the chimney that would impair its use for Chimney Swift shall be justified by a qualified environmental consultant with experience in the field and occur in accordance with all applicable provincial and federal requirements.

Traffic Impact

Sec. 5.1.1.11 of the City's OP provides that where development is proposed, the City may require a comprehensive traffic analysis to assess impacts on the area. Costs related to peer review to evaluate the proposal are to be covered by the proponent. The City may require the developer to execute an agreement with the City providing for financial contributions to provide for any improvements to the transportation system necessary to support the development.

Transportation improvements required by the City may include but are not limited to intersection improvements, road widenings, and integrating the proposed development into the surrounding public access system of roads, walkways, bicycle paths, and transit facilities. Development applications, where appropriate, should make provision for pedestrian and cycling facilities in accordance with the Transportation Master Plan (TMP).

Through the public consultation process, written and oral submissions have been received expressing concern with the proposed development from a traffic perspective and potential impacts on the capacity of the road network.

The subject lands are a through lot with approximately 63 m of frontage on 3rd Avenue East and 43 m of frontage on 4th Avenue East. The Transportation Plan (Schedule 'C') of the City's OP designates 3rd Avenue East as a Minor Arterial/County Road and 4th Avenue East as a Local Road.

Minor Arterial/County Roads serve as the main traffic routes through the City and are intended to carry large volumes of traffic from Provincial Highways and other County Roads to the collector road system to designations within or beyond the City. 3rd Avenue East is a main arterial road providing connectivity north to south through and beyond the City.

Local roads are designed to provide access to abutting properties and to discourage through traffic. The parking area proposed to the rear (east) of the site containing 36 stalls is proposed to gain vehicular access from the Local road (4th Ave E).

A [Traffic Impact Study \(TIS\) completed by C.F. Crozier & Associates Inc. dated May 2023](#) was submitted in support of the proposed development. The TIS reviewed the following aspects of the proposed development from a transportation engineering perspective:

- Existing, future background, and future total traffic operations at the following study intersections:
 - 3rd Avenue East/County Road 15 and 12th Street East
 - 3rd Avenue East/County Road 15 and 10th Street East (Highway 6)
 - 4th Avenue East and 12th Street East
 - 4th Avenue East and 10th Street East (Highway 6)
 - 2nd Avenue East and 10th Street East (Highway 6)
 - 3rd Avenue East/County Road 15 and 13th Street East

- Forecasted trip generation.
- Sight distance as the proposed site access on 4th Avenue East.
- Transportation demand management opportunities.

When considering the existing conditions of the study area intersections, the TIS notes that the 10th Street East (Highway 6) intersections of 2nd Avenue East and 4th Avenue East operate with a Level of Service (LOS) “D” during the Friday p.m. peak hour and have movements approaching capacity under existing conditions. All other study intersections operate with a LOS “B” or better in the Friday p.m. and Saturday peak hours, which indicate that there is capacity for an increase in traffic volumes.

To anticipate the future background conditions of the study area intersections, a horizon year of 2028 was utilized. The TIS applies a conservative growth rate of one per cent (1%) per year to the boundary road network and takes into account optimization of signal timing along 10th Street East as set out in the City’s TMP. The TIS indicates that study area intersections are expected to improve to a LOS “C” or better in the Friday p.m. and Saturday peak hours due to signal timing optimization, compared to 2023 existing conditions. The maximum control delay of 22.1 seconds and volume-to-capacity ratio of 0.92 are both forecasted for 2nd Avenue East and 10th Street East (Highway 6) during the Friday p.m. peak hour, which are common operations during peak times in urban areas. These operations indicate that the boundary road network is operating acceptably under 2028 forecasts.

The TIS estimates that the proposed development will generate between 345 to 356 trips during the Friday p.m. and Saturday peak hour. The proposed entertainment and event venue is anticipated to be the largest driver of trips generated, with 224 estimated during the Friday p.m. and Saturday peak hours respectively. The trip assignment for the proposed development is conservative as it assumes maximum capacity for all of the proposed uses arriving all within the peak hour (i.e., “worst case” scenario).

When superimposing the traffic impacts arising from the proposed development on the future background traffic volumes forecast in 2028, the TIS notes that the study area intersections are anticipated to continue operating acceptably with a LOS “C” or better and that the boundary road network can accommodate the site generated traffic.

Lastly, the TIS also includes a sight distance assessment to demonstrate that the proposed site accesses provide sufficient stopping and intersection sight distances on 4th Avenue East. The study concludes that there are no anticipated site distance issues at the site accesses and vehicles can safely ingress and egress the site. The site access can be supported from a sight distance perspective.

The City’s Engineering Services Division and County Transportation Services Department have reviewed the submitted TIS and indicate no comments or concerns with the study.

Parking

The policies of the City’s OP require that new development and redevelopment, including the reuse of existing buildings, shall be required to provide adequate off-street parking and loading spaces in accordance with the standards established in the Zoning By-law (policy 5.1.4.3).

A [Parking Justification Study prepared by C.F. Crozier and Associates Inc. dated May 2023 and last revised October 2023](#) has been submitted in support of the proposed development. The study provides an analysis of the City’s current zoning by-law requirements as it relates to off-street parking for the proposed development and suggests that 255 off-street parking spaces would be required when considering the gross floor area of each of the individual uses proposed, as follows:

Land Use	By-law Use	Parking Rate	GFA	Required Parking
Restaurant	Restaurant/Drinking Establishment	1 space per 9 sq. m.	1,074 sq. m.	120 spaces
Tea Room				
Speakeasy				
Event Venue (Courthouse and exterior pavilion)	Community Lifestyle Facility	1 space per 20 sq. m.	1,857 sq. m.	93 spaces

Land Use	By-law Use	Parking Rate	GFA	Required Parking
Offices	Office	1 space per 28 sq. m.	318 sq. m.	12 spaces
Patio Space	Restaurant Patio	1 space per 7.5 sq. m.	224 sq. m.	30 spaces
		Totals	3,473 sq. m.	255 spaces

The use of separate parking ratios for each of the proposed uses results in a stringent off-street parking requirement that does not consider uses that may have complementary parking demand or recognize the value of retaining the existing built form as a significant cultural heritage asset.

An analysis of other recent municipal comprehensive zoning by-laws and proxy sites with comparable uses and functions was provided within the study to determine an appropriate off-street parking ratio for the proposed development.

a) Complimentary Parking – Peak Demand Approach

The study notes that the total peak parking demand for the proposed business incubator (offices) occurs before noon, while the proposed restaurant peak is during the Friday p.m. hours. The full utilization of the office parking is therefore separate from the restaurant’s full utilization. Based on the low number of parking spaces required for the office and the variation in parking utilization peaks, parking for the office use can be supported on-site and does not need to be supplied independently from the proposed event and entertainment facility, restaurant and drinking establishment.

b) Other Municipal Comprehensive Zoning By-laws

A review of other recent municipal comprehensive zoning by-laws was undertaken to determine a supportable rate for the entertainment and event venue, restaurant, and drinking establishment uses. The study evaluated the off-street parking requirements of the City of Guelph, Municipality of Meaford, the Town of Collingwood, the City of Orillia, and the Town of Orangeville Zoning By-laws and concludes that the proposed event and

entertainment facility, restaurant, and drinking establishment would require between 152 and 177 spaces under these by-laws.

Furthermore, the subject lands are supported by their proximity to the City's River District which is walkable and has access to public transit and a variety of commercial amenities. The study notes several municipalities that have parking reductions available within their respective zoning by-laws for non-residential uses that are within or in proximity to core commercial areas including:

- The City of Barrie: does not require parking to be provided for commercial uses in the Central Area commercial zone.
- Town of Bradford West Gwillimbury: does not require parking for non-residential uses in the core commercial zone.
- Town of the Blue Mountains: no additional parking is required for a change in non-residential uses in an existing building, so long as there is parking existing on-site.
- Town of Orillia: no parking requirement for non-residential uses within the main street commercial zone. A 50 per cent (50%) reduction in the by-law requirement for off-street parking is provided for downtown commercial areas.

It merits note that the City's Zoning By-law has a similar parking reduction available within the 'Core Commercial' (C1) Zone. Section 5.18.4 of the by-law provides that where, in any C1 Zone, a building exists, and a proposal is made to change the use of the building without increasing the floor area, the new use shall be permitted without additional parking being provided. Similarly, Section 5.18.3 of the by-law provides a reduced off-street parking ratio of one (1) space per 40 sq. m. of GFA for commercial uses within the C1 Zone. When applying this ratio to the proposed development, 87 off-street parking spaces would be required; 47 more than what is proposed on-site.

Furthermore, the historic Courthouse is designated under Part IV of the Ontario Heritage Act and the Jail, Jail yard walls and Governor's Residence are listed on the City's Heritage Register. The provision of off-street parking on-site is generally constrained by the existing built form of these significant heritage resources. Planning Staff polled over 200 Ontario Heritage Planners relative to the subject proposal to confirm alternative off-street parking

regulations that may apply to other designated heritage properties and the following merits note:

- The City of Kingston does not require off-street parking to be provided for designated heritage buildings.
- The City of London provides a 25 per cent (25%) decrease in off-street parking requirements for designated heritage buildings.
- The Town of Collingwood provides a 50 per cent (50%) reduction in required parking for designated heritage buildings located within the downtown.

c) Proxy Sites

The parking study reviewed the supply of two (2) similar venues to inform a minimum supply requirement for the proposed development including the Cambridge Mill in Cambridge, Ontario and the Ancaster Mill in Hamilton, Ontario. The study notes that the Cambridge Mill provides approximately 203 parking spaces on site. Based on the capacity of the venue, a parking rate of one (1) space for every five (5) persons is available. When applying this rate to the proposed development, 141 off-street parking spaces would be required. Similarly, the Ancaster Mill provides 176 off-street parking spaces. Based on the capacity of the venue, a parking rate of one (1) space for every 3.9 persons is available on-site. When applying this rate to the proposed development, 180 off-street parking spaces would be required.

In consideration of the results of the municipal comprehensive zoning by-law and proxy site review, the Parking Justification Study concludes that a total of 180 spaces, or 1 space per 3.9 seats, or 1 space per 19.3 sq. m. of gross floor area, would support the operations of the site.

How the Requirement Will Be Met

The development is proposing a variety of parking strategies to satisfy the minimum number of 180 off-street parking stalls.

Firstly, a total of 40 off-street parking stalls are proposed to be provided on-site. This includes 36 spaces within a parking area to the rear (east) of the site and four (4) spaces to the front (west) fronting 3rd Avenue East, reserved for office use. As noted above, the ability to provide off-street parking on-site is constrained by the existing built form. In order to provide

additional parking, demolition of one or more built heritage resources would need to occur which is undesirable and contrary to the policies of the PPS and the City's OP, which require conservation of these resources.

Secondly, the provisions of the City's Zoning By-law (Sec. 5.18.11) permit required off-street parking to be located on another lot within 100 m of the subject lands. Through the subject ZBA application, the proponent is requesting that off-street parking be permitted to be located on another lot within 500 m. An additional 75 off-street parking spaces are proposed to be provided off-site within 500 m on lands located at the northeast corner of the intersection of 2nd Avenue East and 14th Street East, municipally known as 1399 2nd Avenue East. These lands are currently owned by the City and the Owner is working with the City to finalize a lease for these lands which will be required prior to redevelopment commencing. A future open report will be coming forward regarding the lease. Site Plan Approval in accordance with the City's Site Plan Control By-law (2019-185) will also be required to establish the parking area.

In total, the development proposes to provide 115 off-street parking stalls both on- and off-site, on a separate lot within 500 m. Planning Staff recommend that 115 off-street parking stalls be reflected within the amending ZBA as the minimum number of off-street parking stalls required for the development. Based on a gross floor area of 3,473 sq. m. as noted within the Parking Justification Study, this would result in a parking ratio of 1 space per 30.2 sq. m. of GFA.

The policies of the OP allow the City to consider reducing the required number of parking spaces needed for development or redevelopment where it is demonstrated that the proposed use does not require the stated level of parking and/or an agreement has been registered on title to provide off-street parking (policy 5.1.4.15). In the opinion of Planning Staff, a minimum of 115 off-street parking stalls is appropriate for the development and use of the lands for the following reasons:

- The provision of on-site parking (40 spaces) has been maximized while retaining significant built heritage resources in support of the policies of the PPS and the OP.
- The provision of 75 parking spaces off-site, within 500 m of the subject lands, will be secured through a Parking Use/Lease

Agreement with the City, required prior to redevelopment commencing. A distance of 500 m represents less than an eight-minute walk to the site and remains functional for users. The provision of off-site parking is proposed to be complemented by valet parking and shuttle services, as discussed further below.

- The location of the subject lands is supported by its proximity to the River District and East Harbour Area which is walkable and has access to transit. Specifically:
 - The immediate road network has access to pedestrian facilities, including concrete sidewalks provided on both sides of 3rd Avenue East, 4th Avenue East, 12th Street East and 13th Street East.
 - The subject lands are located 100 m north and south of existing transit stops for the East Bayshore Route at the 3rd Avenue East intersections with 12th Street East and 13th Street East. The City's Transit Terminal is located approximately 500 m south where all four (4) local bus routes convene.

A minimum of 100 off-street parking stalls provided on-site and off-site on a separate lot within 500 m is requested by the application and was noted within the Notice of Complete Application and Public Meeting given in accordance with the Planning Act. The recommended minimum off-street parking requirement of 115 stalls represents a more stringent requirement than requested by the application and outlined in the notice. For this reason, Planning Staff are of the opinion that the proposal remains consistent with the notice previously given and that the issuance of an additional public notice is not required.

Parking Management Strategy

The Parking Justification Study includes a preliminary Parking Management Strategy consisting of a combination of strategies that could be implemented independently, or in concert, to provide an additional 65 parking stalls, for a total of 180. Parking strategies as identified by the study are as follows:

Off-site Partners

The Parking Management Strategy proposes that additional parking would be provided off-site at locations where existing uses are complementary to the

proposed entertainment and event facility. This is anticipated to primarily include facilities such as hotels and churches where guests would be expected to stay or attend service before or after events at the facility.

Additionally, the City's East Harbour Area includes certain office and public uses (e.g., Public Health) that have peak parking demand during regular business hours (e.g., Monday to Friday, 8:30 am to 4:30 pm) but do not typically require use of their parking area during the evenings or weekends. Therefore, there may be opportunity to formalize parking agreements with other off-site partners that have complementary parking demand to the proposed event and entertainment facility.

Shuttling

The provision of off-site parking at 1399 2nd Avenue East and at other partner sites that may be identified is proposed to be complemented through the provision of valet and shuttling services. The use of valet and shuttling services will increase the functionality of off-site parking areas by making them more easily accessible to users of the facility.

Municipal Facilities

The use of municipal parking facilities including on-street parking and parking within designated municipal lots has not been used to justify an off-street parking requirement for the site and is not allocated toward the minimum 115 off-street parking stalls required. Though, it merits note that the Parking Management Strategy identifies more than 400 parking spaces on-street and within municipal parking lots that are available within a 500 m radius of the site.

Specifically, the City's Traffic By-law permits on-street parking on both sides of 2nd Avenue East and 13th Street East. Parking is available on one side of 1st Avenue East, 3rd Avenue East, 11th Street East, and 12th Street East. From December 1st through March 31st of each year, no overnight parking is permitted on-street between the hours of 1 am and 7 am to allow for winter control operations. The proposed entertainment and event facility includes, among its internal functions, indoor and outdoor entertainment facilities that are seasonally driven, including the proposed patio space. Therefore, it is anticipated that parking demand for the proposed development would be higher during the summer months and subsequently complemented by the availability of on-street parking during this time.

It merits note that through the public consultation process, the lack of availability of on-street parking, particularly along 4th Avenue East, was noted as a concern. Planning Staff wish to clarify that if on-street parking is permitted, then it is intended to be available for public use and may be utilized by patrons visiting the subject site or other destinations within the City's River District or Harbour Area. Should the City wish to reduce or prohibit on-street parking within this area in the future, an amendment to the City's Traffic By-law would be required.

Payment-in-Lieu of Parking

Section 9.7.1 of the City's OP provides that where a zoning by-law requires that on-site parking be provided as a condition to the development or establishment of a use, the City may enter into an agreement with the owner of such lands exempting the owner from the provision of on-site parking subject to the payment of a sum of money which shall be used to acquire lands and provide and maintain public parking facilities, otherwise known as payment-in-lieu of parking.

Payment-in-lieu of parking is generally intended to be employed in the River District Commercial area however, the City may use this alternative where any of the following conditions exist:

- a. The subject property is too small to accommodate the amount of parking required.
- b. Provision of on-site parking would result in poor site planning that would detract from the subject and area properties (the development would be out-of-character with the form of development evident in the vicinity of the subject property).

The above noted conditions are relevant to the proposed development as the ability to provide off-street parking on-site is generally constrained by the location of the existing heritage buildings. Provision of additional on-site parking would require the demolition of one or more of these built heritage resources that would detract from the cultural heritage value of the property.

Consideration of payment-in-lieu of parking, the provision of detailed parking agreements/arrangements with off-site partners and the timing of their execution will be incorporated into the detailed Parking Management

Strategy required as part of a future site plan approval application and related Site Plan Agreement.

Parking Conclusion

In summary, a total of 180 parking spaces for the development is appropriate based on a detailed review of other municipal comprehensive zoning by-laws and proxy sites provided within the submitted Parking Justification Study. The proposed development will provide adequate off-street parking, consistent with the policies of the OP, both on- and off-site and under a detailed Parking Management Strategy. It is recommended that the OPA include the following policy to require the provision and implementation of the Parking Management Strategy as part of a future site plan approval application:

The following matters shall be addressed to the satisfaction of the City through an application for Site Plan Approval:

- a. A Parking Management Strategy will be required as part of a complete application and shall outline strategies and requirements for the delivery of off-site parking and implementation of other recommendations identified within the Parking Justification Study including, but not limited to, parking arrangements and/or agreements with off-site partners, the use of municipal facilities to provide parking, and/or payment-in-lieu of parking pursuant to the policies of Section 9.7.5 of this Plan.*
- b. The Parking Management Strategy will be implemented through a Site Plan Agreement or other Agreement to the satisfaction of the City.*

Lastly, the policies of the OP require that new development and redevelopment provide parking and charging stations for electric vehicles. Planning Staff recommend that the ZBA include provisions for EV parking, as discussed further in the 'Zoning By-law' section of this report.

Land Use Compatibility

Section 9.3.1 of the OP provides criteria that shall be applied when reviewing applications to amend the Official Plan including consideration of impact on surrounding land uses. Similarly, Section 9.1.2 of the OP provides that when considering an application to amend the zoning by-law, decisions should consider the compatibility with adjacent uses of land and servicing.

The Urban Design policies of the OP (Sec. 8.6.7) require that the City consider matters of potential impact on adjacent uses when considering any application for a change of use. Generally, where a non-residential site abuts a residential use the location of access lanes, parking areas, loading areas, and waste storage close to the residential use should be avoided (policy 8.6.7.5). The City may require support of compatibility studies to protect adjacent uses.

Through the public consultation process, comments have been received from members of the public that note concerns with noise generated from the proposed development including the proposed event and entertainment facility, drinking establishment, and off-street parking and loading areas.

A [Land Use Compatibility \(Noise\) Study completed by RWDI dated March 23, 2023, and last revised September 8, 2023](#), has been submitted in support of the proposed redevelopment. The purpose of the study was to assess the potential for noise, dust, and odour impact on the surrounding noise-sensitive land uses. The study indicates that the proposed redevelopment is not anticipated to be a source of dust or odour. Any potential sources of odour generated from the restaurant kitchen can be effectively mitigated through the use of an ecology unit installed on the kitchen hood.

When considering potential impacts of noise generated from the facility, the study demonstrates that sound levels based on the predictable worst-case scenario (all uses operating at full capacity at the same time), meet the Ministry of Environment, Conservation and Parks (MECP) NPC-300 Guidelines at all surrounding receptors. Furthermore, the existing Jail yard walls to be maintained encircle proposed outdoor entertainment areas, including the patio space. The study notes that the Jail walls are expected to meet the requirements for a noise barrier with a face density of 20 kg/m² and will significantly reduce noise from the outdoor event space at all surrounding residences. Detailed noise modelling was undertaken, considering potential noise generated from loading/garbage pickup activities, activities/events within the outdoor entertainment areas, cars parking in the rear parking area, and mechanical condensing units. The modelling predicts that noise levels at all surrounding sensitive receptors will meet MECP NPC-300 Class 1 sound limits for both continuous and impulsive sounds. In addition, the modelling results demonstrate the existing Jail walls will provide sound level

reductions in the range of 8-18 decibels (dB) depending on the receptor location relative to the site.

As described within the 'Arterial Commercial Land Use Designation' section of this report, the proposed development is limited to the floor area of the existing buildings, with the exception of the proposed enclosure of the northern Jail yard. The proposed uses will be contained either indoors or within the confines of the Jail walls that serve as a noise barrier, to minimize their influence on the immediate neighbourhood. Additionally, it merits note that the subject lands have been vacant for nearly a decade (since 2013) and therefore, the impact of the operation of the existing buildings/structures on the surrounding neighbourhood has been non-existent. The introduction of a new use on the property, whether permitted under the current Institutional zoning or otherwise, would change how the subject lands and surrounding areas feels and functions.

Loading

The submitted Concept Plan, attached as Schedule 'D', demonstrates a proposed loading dock on the north side of the property, adjacent to the Governor's Residence. The loading dock is intended to support the shipping and receiving functions of the proposed event and entertainment facility and restaurant.

The location of the loading space is generally constrained by the location of the existing heritage buildings on-site and the proposed uses within them. As demonstrated on the proposed Floor Plans, attached as Schedule 'D', the loading dock is currently positioned adjacent to a designated shipping/receiving area to the rear of the Governor's Residence that provides direct access to the proposed restaurant kitchens, thereby optimizing functionality of the site.

Despite the analysis provided by the submitted Noise Study and demonstrated compliance with applicable provincial guidelines, the Noise Study and Planning Addendum Letter acknowledge that there may be potential concerns from the residential property owner of 1275 3rd Avenue East adjacent to the loading area. The Noise Study acknowledges that a noise barrier between the loading dock at the north side of the site and the residential receptor at 1275 3rd Avenue East will be beneficial for relieving

noise concerns. The barrier would be required to be 4 m tall with a length of 40 m to achieve any meaningful noise reduction.

Policy 8.6.7.4 of the OP states that wherever a residential type of use abuts an industrial use, a commercial use, an institutional use, a parking area, a loading area, or any other incompatible use, the City may develop and enforce setback requirements, site plan requirements, and design guidelines to provide adequate visual and aural separation and privacy for the residential use in accordance with provincial guidelines.

Staff recommend that through the site plan approval process the provision of a 4 m high, 40 m long noise attenuation fence, as recommended by the Noise Study, be required along the north lot line to buffer the loading area from the adjacent residential use. The fence will be required to be offset from the north lot line to mitigate any potential impacts to existing tree plantings and shall have landscaping which may include trees, shrubs, perennials, or a combination thereof, provided along both the north and south sides to soften its unvaried appearance. The exact materials of the fence, specifications for the noise attenuation barrier, and associated landscaping is subject to further review and approval through a future site plan approval application.

The Planning Addendum Letter submitted in support of the proposed redevelopment indicates that the proponent is not averse to the installation of additional noise mitigation measures however, further details associated with such measures should be determined and implemented through a future site plan approval application. Planning Staff generally agree with this approach and recommend that the following policy be included within the OPA to ensure that additional noise mitigation is addressed and implemented at the site plan stage, to the satisfaction of the City:

The following matters shall be addressed to the satisfaction of the City through an application for Site Plan Approval:

c. Additional noise mitigation measures associated with on-site loading will be evaluated for potential implementation. Mitigation measures may include but are not limited to the provision of a noise attenuation fence along the north property line, as recommended by the Land Use Compatibility Study.

d. The provision of a Landscape Plan completed by a qualified professional is required as part of a complete application and shall include landscaping

details, to the satisfaction of the City, sufficient for buffering the proposed development from neighbouring properties and the City street.

Servicing

The policies of the City's OP permit development in areas that can be adequately serviced by municipal services including municipal water, wastewater, stormwater management, and emergency services (policy 5.2.1.1). The City may require, as a condition of reviewing any development proposal, an analysis by a qualified professional of the capacity, availability, and appropriateness of any municipal services, including a stormwater management plan (policy 5.2.1.4). New developments or redevelopments are required to have a stormwater management plan in place prior to construction addressing matters such as:

- a. The physical characteristics of the site, including slope gradient, slope length, soil texture, soil drainage, and vegetative cover.
- b. Pre-development and post-development runoff expected based on guidelines provided by the City and/or Grey Sauble Conservation Authority.
- c. Quantity and quality control in conformity with sub-watershed plans.
- d. Methods to be used to control runoff and erosion both during and after construction, emphasizing at-source measures.

As noted within the PPS section of this report, a [Functional Servicing Brief \(FSB\) completed by C.F Crozier and Associates dated April 2023](#) has been submitted in support of the proposed development. The FSB has been reviewed by the City's Engineering Services Division and the following merits note:

Stormwater Management (SWM)

Stormwater is proposed to be conveyed to an existing storm sewer on 12th Street East, which outlets directly to Georgian Bay. Although there is no existing storm sewer on 3rd Avenue East, there is an existing 375 mm diameter storm sewer on 4th Avenue East that conveys runoff to the sewer on 12th Street East.

Internal paved areas within the site will be graded with varying slopes typically ranging from 0.5% to 5% to promote stormwater drainage from the parking area, towards proposed catch basins and ultimately connecting to the existing storm sewer infrastructure on 4th Avenue East.

The site will have an increase in impervious area with the additional parking lot off 4th Avenue East. Stormwater runoff for minor flows will be directed to 4th Avenue East via storm sewers, and major flows will continue to 3rd Avenue East via overland flow. Post-development peak flows will be controlled to meet the existing pre-development peak flows through the use of a stormwater management facility on-site (e.g., surface storage, super pipes, subsurface storage tanks), providing the required volume of storage. As it relates to managing stormwater quality, the development will incorporate measures to provide enhanced protection to treat runoff from the site. To provide enhanced protection, an end-of-pipe control (e.g., oil/grit separator) is recommended to treat the runoff from the proposed parking lot before it enters to municipal storm sewer system.

Water Servicing

The FSB assumes the following four (4) scenarios for calculating water demand for the proposed development:

- Scenario #1 – Event Venue Only
 - Assumes that all other uses are closed during an event.
- Scenario #2 – Office Space and Restaurant
 - Assumed to be the typical use during a weekday.
- Scenario #3 – Restaurant and Speak Easy (Drinking Establishment)
 - Assumed to be the typical use during the evenings.
- Scenario #4 – Event Venue, Restaurant and Speak Easy (Drinking Establishment)
 - Assumed to be the maximum demand scenario (i.e., “worst case” scenario) possible.

To be conservative, the FSB uses the highest average daily demand (ADD) flow rate from the worst-case scenario (Scenario #4 above) to estimate future water demands for the site. The study notes an average day water

demand of 0.58 litres per second, a max day demand of 2.09 litres per second, and a peak hour demand of 3.14 litres per second.

Fire flows required to service the site were determined to be 183 liters per second. The total design flow (peak hour plus fire flow) is 186.14 litres per second.

The study notes that based on the model results, there is sufficient capacity in the existing water distribution system to support the proposed development without any upgrades.

Wastewater Servicing

In order to calculate the proposed wastewater demand, the same four scenarios that used to calculate water demand, as noted above, were evaluated.

The FSB estimates a peak wastewater flow from the future conditions of the site will be 2.40 litres per second and notes that based on the model results, there is sufficient capacity in the existing wastewater sewers to support the proposed development without any upgrades.

In summary, the FSB demonstrates adequate capacity of existing municipal infrastructure to accommodate the proposed development and adaptive reuse of the existing buildings. The FSB and comments received from the City's Engineering Services Division note that the size, material, and age of the existing water and sanitary service connection to the building is unknown and the laterals may require replacement. The provision of a detailed Servicing Plan and subsurface utility investigation will be further reviewed through the site plan approval process.

Urban Design

The Urban Design policies of the City's OP (Section 8.0) promote a high standard of design in public and private development to achieve an appealing, comfortable, accessible, safe living and working environment for residents and visitors of Owen Sound. Particular attention will be given to development within the River District Commercial and Harbour areas.

The proposed development is consistent with the Urban Design policies of the OP as follows:

- The majority of on-site parking is oriented to the rear (east) of the site to ensure an attractive streetscape along 3rd Avenue East and that significant views of the designated Courthouse building are maintained.
- The development will include attractive landscaping of parking areas, the Jail yards, and the manicured lawn areas from 3rd Avenue East to ensure an attractive street edge and buffering of the development from adjacent land uses. On-site landscaping will be subject to further review and approval through a future site plan approval application.
- The Urban Design policies of the OP generally require that where a non-residential site abuts a residential use, the location of access lanes, parking areas, loading areas, and waste storage close to the residential use should be avoided. As noted within the 'Land Use Compatibility' section of this report, the siting of the proposed loading space along the north lot line adjacent to an existing residential use at 1275 3rd Avenue East is generally constrained by the location of the existing buildings and the proposed uses within them. The Land Use Compatibility (Noise) Study demonstrates that the proposed development is compatible from a noise perspective in accordance with MECP D-Series Guidelines. To further mitigate potential impacts of the proposed development as it relates to noise, a 4 m high, 40 m long noise attenuation fence will be required along the north lot line. The design and location of the fence, including required landscaping to buffer its unvaried appearance, will be further evaluated through a future site plan approval application.
- The development proposes to retain all existing built heritage resources and is anticipated to have a positive impact on the cultural heritage value of the property by recreating missing heritage elements, including the reconstruction of a front portico on the Courthouse building, and removing miscellaneous outbuildings and structures with no heritage value.
- Pedestrian connections into the site from the City street (3rd and 4th Avenues) are provided.

- The development will include exterior lighting to illuminate pedestrian pathways and parking areas. The policies of the OP require dark sky compliant lighting that minimizes glare and impact to the night sky, public view, and surrounding properties. The provision of a detailed Photometric Lighting Plan for the development will be required as part of a future site plan approval application.

The application is consistent with the goals, objectives, and policies of the City's Official Plan.

D: City of Owen Sound Zoning By-law (2010-078, as amended)

The subject property is zoned 'Institutional' (I) in the City's Zoning By-law (2010-078, as amended). The current zoning of the subject lands recognizes their former function as a judicial precinct. The last institutional use on the property ceased operation in 2013, and the existing buildings/structures have been vacant since that time.

D1: Zoning By-law Amendment No. 49

As described within the 'Background' section of this report, the effect of the Zoning By-law Amendment is to rezone the subject lands from 'Institutional' (I) to 'Mixed Use Commercial' (MC) with Special Provision (14.141) within the City's Zoning By-law (2010-078, as amended). Permitted uses in the MC Zone include 'Restaurant' and 'Drinking Establishment', among other uses. The proposed Special Provisions (14.141) would, in addition to the uses permitted in the MC zone, add a 'Business Incubator' and 'Event and Entertainment Facility' as permitted uses and define these uses generally in accordance with the following:

'Business Incubator' means an establishment that provides incubator services such as management training, networking facilities, programming, mentorship programs, business assistance services, and office space, including 'hot desk' services, and is dedicated to nurturing the development and commercialization of start-ups, early-stage companies, and established companies (enterprises).

'Event and Entertainment Facility' means an establishment in which the main use is to accommodate gatherings for specific events and which may also include, among its internal functions, accommodation for overnight

guests, accessory retail and office, and indoor and outdoor entertainment facilities available for use by event participants, the general public, or both.

As discussed within the 'Official Plan' section of this report, Planning Staff recommend that the Special Provision (14.141) require a minimum of 115 parking stalls for the development and to permit required parking to be located on-site or on another lot within 500 m of the subject lands.

Mixed-Use Commercial (MC) Zoning

The proposal Mixed Use Commercial (MC) Zoning is consistent with the Arterial Commercial land use designation and is appropriate for permitting some of the commercial uses proposed as part of the development including restaurants and drinking establishments (speakeasy).

Offices are also among the uses permitted in the MC Zone. The Zoning By-law defines an 'Office' as meaning: *"a building in which one or more persons are employed in the management, direction or conducting of a business, a government institution or non-government organization or where professionally qualified persons and their staff serve clients who seek advice and consultation of a public or private agency, a business, a brokerage, or a labour or fraternal organization."*

The proposed Business Incubator use is similar in function to that of an office though, the proposed definition clarifies that the use may include mentorship, training, and 'hot desk' services that support start-ups and businesses though, are not necessarily related to the management, direction, or conducting of a business on-site, as would be required by the Office definition.

The City's Zoning By-law does not currently define or permit an event venue or banquet hall. The proposed definition of 'Event and Entertainment Facility' proposes to define and permit this type of use on the subject lands. Modifications to the proposed definition are recommended as outlined within the draft ZBA attached as Schedule 'F', that would recognize the proposed restaurant and drinking establishment as internal functions of the event and entertainment facility. Additional wording is recommended to clarify that nothing in the definition would prevent a restaurant or drinking establishment from being permitted as standalone uses in accordance with the provisions of the MC Zone.

Off-street Parking

As noted within the 'Official Plan' section of this report, Planning Staff recommend that the amending ZBA require a minimum of 115 off-street parking stalls for the proposed development, resulting in a parking ratio of 1 space per 30.2 sq. m. of GFA.

40 off-street parking stalls are proposed to be provided on-site and 75 are proposed to be provided off-site on another lot within 500 m of the subject lands to satisfy this requirement. Section 5.18.11 of the Zoning By-law restricts the distance of off-site parking to another lot within 100 m to ensure that parking areas are located in an optimal location to the lands which they are intended to serve. The proposed 500 m distance represents an eight-minute walk to the site and is supported by the provision of valet and shuttling services and existing pedestrian infrastructure within the River District and Harbour Area to ensure functionality for users. Therefore, the proposed 500 m distance maintains the general intent and purpose of the Zoning By-law.

The provision of an additional 65 parking spaces, for a total of 180, is proposed to be addressed through the provision of a detailed Parking Management Strategy required at the time of Site Plan Approval.

Electrical Vehicle Parking

As noted within the 'Official Plan' section of this report, the policies of the City's OP require that new development and redevelopment provide parking and charging stations for electric vehicles. Planning Staff recommend that the amending ZBA require EV Parking at the following ratios:

Number of Total Required Parking Spaces	Minimum Number of Electric Vehicle Parking Spaces with Charging Facilities
0-150	2
Greater than 150	Three per cent (3%) of total required parking

Based on 115 required off-street parking stalls, two (2) stalls will be required to be designated electric vehicle parking spaces with charging facilities.

Front Lot Line

The subject lands are a through lot with approximately 63 m of frontage on 3rd Avenue East and 43 m of frontage on 4th Avenue East. To improve interpretation of the by-law in the future, it is recommended that the ZBA deem the 'Lot Line, Front' as the lot line fronting 3rd Avenue East for the purposes of the Zoning By-law.

D2: General Zoning Conformity

Planning Staff have undertaken a fulsome review of the proposal in consideration of the general and MC zoning provisions. Results of this review as attached to this report as Schedule 'G'. In summary, the proposed development can comply with all other general and MC zone provisions. A detailed zoning conformity check will be undertaken as part of a future site plan approval application.

E: City Staff & Agency Comments

In response to the request for comment from the Planning & Heritage Division, the following comments have been submitted for review pertaining to the subject applications. All comments can be found attached hereto as Schedule 'H'.

City of Owen Sound Engineering & Public Works Department

Comments has been received from the City's Engineering & Public Works Department with no objection to the subject proposal. Matters respecting stormwater management design, the implementation of the required Parking Management Strategy, and conveyance of a 5.0 m road allowance widening across the 3rd Avenue East frontage of the property will be further addressed through a future Site Plan Approval application.

City of Owen Sound Fire Prevention Division

Comment has been received from the City's Fire Prevention Division with no objection to the subject proposal.

City of Owen Sound Building Division

Comment has been received from the City's Building Division with no objection to the subject proposal. The development will be subject to further review and approval through the submission of a Building Permit.

Grey Sauble Conservation Authority (GSCA)

Comment has been received from GSCA with no objection to the subject proposal. The subject property is not affected by any regulated areas and/or natural hazards.

Grey County

Comment has been received from Grey County with no objection to the subject proposal. The subject property is designated 'Primary Settlement Area' by the County's Official Plan. Primary Settlement Areas are intended to permit a wide range of uses.

The subject property is located on 3rd Avenue East, which forms part of Grey Road 15. County Transportation Services have reviewed the submitted TIS and have indicated no concerns with the proposal.

The property is also directly adjacent to an ambulance station under the management and ownership of Grey County. The proposal has been reviewed by Grey County Paramedic Services and County Planning Staff, who have indicated that the following be considered at a site plan stage:

- That permanent fencing be installed between the Courthouse property and ambulance station to ensure that guests do not block access of emergency vehicles entering/exiting the station.
- Given the extent of off-site parking proposed to accommodate the development, it is recommended that current "no parking" signage along 3rd Avenue East be reviewed and potentially enhanced to ensure that guest vehicles do not block movement of emergency vehicles.
- Consideration of dark sky compliant lighting.

Lighting and fencing details and the installation of additional "no parking" signage along 3rd Avenue East, if necessary, will be further evaluated through a future site plan approval application. There are no amendments proposed to the City's Traffic By-law at this time that would further restrict or prohibit on-street parking within this area. Planning Staff note that the development proposes to provide 115 off-street parking stalls on-site and on another lot within 500 m of the subject lands that will alleviate use of and impacts to on-street parking.

Comments received from County Planning Staff indicate general support for the adaptive reuse of the existing heritage buildings. The proposed mix of commercial uses provides a key opportunity to enhance event space in proximity to the City's River District.

F: Public Comments

Seven (7) written comments have been received from the public regarding the applications. A Public Meeting to consider the applications was held on September 11, 2023, in accordance with the requirements of the Planning Act. Four (4) members of the public gave oral submissions at the meeting. The comments, as well as the September 11, 2023, Public Meeting Minutes are attached to this report as Schedule 'I'.

Public comments received note concerns related to parking, noise, traffic, and the presence of natural heritage features and designated hazardous substances. These matters have been addressed throughout the balance of this report and merit further clarification as follows:

Parking

Public comments received note concerns with the lack of parking provided for the proposed development, the use of on-street parking and the impacts on-street parking may have on access for emergency vehicles.

As noted within the 'Official Plan' section of this report, the Parking Justification Study submitted in support of the proposed development demonstrates that 180 parking spaces are adequate for supporting this type of facility. The amending ZBA will require that 115 parking spaces be provided on-site and off-site on a separate lot within 500 m of the subject lands. On-street parking spaces and/or parking spaces within designated municipal lots do not count toward the minimum number of 115 parking stalls.

The provision of an additional 65 parking spaces will be addressed through a detailed Parking Management Strategy required at the time of site plan approval. Strategies identified within the preliminary Parking Management Strategy identify the use of municipal facilities, such as on-street parking, for addressing seasonal increases in parking demand associated with certain internal functions of the event and entertainment facility, including patio space. It merits clarification that the City's Traffic By-law permits on-street

parking on both sides of 2nd Avenue East and 13th Street East and on one side of 1st Avenue East, 3rd Avenue East, 11th Street East, and 12th Street East. If on-street parking is permitted, then it is available for public use which may include patrons visiting the subject site or other destinations within the City's River District or Harbour Area. The City does not currently restrict on-street parking to residents only and any proposal to reduce or prohibit on-street parking within this area in the future would require an amendment to the Traffic By-law.

Noise

Public comments received note concerns with noise generated from the proposed development including the proposed event and entertainment facility, drinking establishment, and off-street parking and loading areas. As described in the 'Official Plan' section of this report, a Land use Compatibility (Noise) Study has been submitted in support of the proposed redevelopment which demonstrates that the proposed uses are compatible from a noise perspective. Sounds level due to the facility, based on the predictable worst-case scenario (all uses operating at maximum capacity at the same time) meet MECP NPC-300 exclusion limits at all surrounding receptors.

Additionally, the Jail yard walls to be maintained meet the requirements for a noise barrier and will significantly reduce noise from the outdoor event space at surrounding residences. Additional noise mitigation measures to buffer the proposed loading area from the residential property to the north and associated landscaping to buffer the site from adjacent uses and the City street will be confirmed through a future site plan approval application.

Traffic

Public comments received express concerns with the proposed development from a traffic perspective and potential impacts on the capacity of the road network. As noted within the 'Official Plan' section of this report, the subject lands are a through lot with approximately 63 m of frontage on 3rd Avenue East and 43 m of frontage on 4th Avenue East. The Transportation Plan (Schedule 'C') of the City's OP designates 3rd Avenue East as a Minor Arterial/County Road and 4th Avenue East as a Local Road.

Minor Arterial/County Roads serve as the main traffic routes through the City and are intended to carry large volumes of traffic from Provincial Highways and other County Roads to the collector road system to destinations within or

beyond the City. 3rd Avenue East is a main arterial road providing connectivity north to south through and beyond the City. A TIS was submitted in support of the proposed development and demonstrates that there is capacity of the road network to accommodate trips generated by the proposed development as well as anticipated background traffic growth.

Chimney Swift

Public comments received note the use of the existing Courthouse chimney as a roost site for Chimney Swift and express concerns with the lack of information provided in support of the application to address this matter. A Letter of Opinion from a qualified environmental consultant has been submitted in support of the proposed development, in part, to address public comments received. Furthermore, an OP policy is included within the draft amendment attached as Schedule 'E', that will require future development to consider the retention of the existing chimney to the greatest extent feasible for the benefit of chimney swift.

Designated Substances

At the September 11th public meeting Council was asked whether the City will commit to monitoring safe containment and disposal of hazardous wastes (e.g., mould, asbestos) on site and report this information to the public in a transparent manner.

Comment received from the City's Building Division and the Planning Addendum Letter confirm that a Designated Substance Survey (DSS) will be required as part of a complete demolition permit for any part of the structure, interior or otherwise. As part of the DSS, if mould and/or asbestos are identified, the removal of these materials must be completed by a certified professional in accordance with the regulations provided under the Occupational Health and Safety Act. Monitoring and reporting of the safe containment and disposal of these materials is the responsibility of the qualified contractor retained to undertake the work. The Ministry of Labour is the provincial governing body responsible for enforcement of the OHSA and regulations thereunder.

In addition to the public meeting held on September 11, 2023, Planning Staff attended two (2) in person meetings with the owner of the residential property to the north, municipally known as 1275 3rd Avenue East. Formal

written comments have been received from this property owner with a series of questions that can be addressed as follows:

- *Curbing/Landscape Buffer Strips (Zoning By-law Section 5.23), Fencing (what is the height and material and will existing trees be damaged?)*

A landscape buffer strip that complies with Section 5.23 of the City's Zoning By-law will be required along the north (side) lot line to buffer the proposed parking area and loading space. The provision of landscape buffer strips that meet the requirements of the Zoning By-law will be confirmed through the Site Plan Approval process.

In addition, a 4 m high, 40 m long noise attenuation fence, as recommended by the submitted Land Use Compatibility (Noise) Study will be required along the north (side) lot line at the time of site plan approval. Staff recommend that the fence be offset from the north lot line to mitigate potential impact to the existing trees. The material of the fence and associated landscaping on the north and south sides will be evaluated as part of a future site plan approval application.

- *Lighting (where, how many, and what kind?)*

Site lighting will be required to comply with Section 5.22 of the Zoning By-law. The provision of a detailed Photometric Lighting Plan will be required as part of a future site plan approval application showing the location and details of all on-site lighting.

- *Dumpster and enclosure locations*

The location of waste receptacles/storages areas will be confirmed through a future site plan approval application. The location and buffering of waste receptacles/storage areas will be required to comply with Section 5.24 of the Zoning By-law.

- *Landscaping (plant lists including names and sizes)*

The provision of a detailed Landscaping Plan completed by an Ontario Landscape Architect will be required as part of a future site plan approval application. The City's [Development Application Guidelines](#) require that plant materials be native species, selected from the City's Species List.

- *Snow Storage*

The submitted Concept Plan proposes snow storage within the 1.5 m wide landscape buffer strips to the north and south of the parking area and on a paved island in the centre of the parking area. Staff recognize that the proposed snow storage will not be adequate for accommodating the amount of snow fall experienced in Owen Sound during the winter months. Standard provisions within the City's Site Plan Agreement, required as a condition of Site Plan Approval, require that snow storage areas drain to the internal stormwater management system, cannot occupy parking areas required for zoning compliance, and cannot be located on City-owned property. Provisions of the agreement require that excess snow be removed from the site following each snow event, at the Owner's expense.

- *Location of condensers*

The Land Use Compatibility (Noise) Study submitted in support of the proposed development states that condensing units on the north side of the property can have an overall maximum sound power level (PWL) of 85 dBA for one unit or 82 dBA each if two units are installed while meeting provincial guidelines at all surrounding receptors. The exact location and specifications for the condensing units will be confirmed through a future site plan approval application though, it merits note that the units will be located on the south side of the 4 m high, 40 m long noise attenuation fence required along the north lot line.

- *Loading (why is a loading dock being allowed at the north side?)*

As noted within the 'Land Use Compatibility' section of this report, the location of the proposed loading space is generally constrained by the location of the existing buildings and the uses within them. The provision of a 4 m high, 40 m long noise attenuation fence will be required as part of a future site plan approval application to reduce potential impact of the loading space on the adjacent residential use.

- *Will there be cameras placed on the property and where?*

The installation of cameras on-site and the associated location is not known at this time. Cameras support safety for patrons as well as adjacent uses.

- *Parking: is the 100 parking spaces inclusive of staffing needs?*

This report has provided a detailed analysis of parking considering the Parking Justification Study completed by C.F Crozier & Associates, submitted in support of the proposed development. The study demonstrates that 180 parking spaces are adequate for supporting this type of facility, inclusive of staffing needs. The amending zoning by-law will require that 115 parking spaces be provided on-site and off-site on a separate lot within 500 m of the subject lands. The provision of an additional 65 parking spaces, for a total of 180, will be addressed as part of a detailed Parking Management Strategy required at the time of site plan approval.

- *Land Use Change: will the effect of the rezoning allow other uses?*

As discussed in the 'Zoning By-law' section of this report, the effect of the ZBA is to rezone the subject lands from 'Institutional' (I) to 'Mixed Use Commercial' (MC) with a Special Provision 14.141 to permit uses within the MC Zone, in addition to an 'Event and Entertainment Facility' and 'Business Incubator' as defined within the Special Provision. Should the ZBA come into force and effect, uses permitted within the MC Zone and Special Provision 14.141 will be permitted on the subject lands.

It merits note that development of the site for the uses identified within the subject applications, and/or other uses permitted in the MC Zone, would require, at a minimum, Site Plan Approval in accordance with the City's Site Plan Control By-law (2019-185) which ensures, among other matters, a safe, attractive, and functional site layout that is adequately buffered from surrounding properties.

Lastly, through discussions at in person meetings with the property owner of 1275 3rd Avenue East, concerns respecting overlook of the three-storey Jail building onto the rear yard of the property were noted. In consideration of this, Planning Staff recommend that through the site plan approval process, the third storey windows on the north façade of the 1869-1877 Jail building have a screen or treatment applied such that 100 per cent (100%) of the window area is opaque to minimize overlook onto the rear yard of the adjacent residential property.

G: Site Plan Control Matters

The proposed development is subject to Site Plan Control in accordance with Section 41 of the Planning Act and City By-law 2019-185.

Conditions of approval to be applied through the Site Plan Approval process are discussed in the 'Official Plan' and 'Zoning By-law' sections of this report and can be summarized generally as follows:

- Provision of a Stage 2 Archaeological Assessment and acceptance by the Ministry of Citizenship and Multiculturalism for the manicured lawn areas and jail yards.
- Provision of a Phase 2 Heritage Impact Assessment (HIA) including a detailed Conservation Plan for the Courthouse building.
- Provision of an Effects Assessment incorporating the matters outlined within the Letter of Opinion by Terrastory Environmental dated October 6, 2023.
- That the Site Plan Agreement contain provisions requiring that the applicant obtain an ESA permit from MECP and/or a Species at Risk Act (SARA) permit from Canadian Wildlife Service (CWS), and any other necessary approvals from provincial and/or federal agencies, prior to any work commencing that would affect Chimney Swift individuals or the function of the Courthouse chimney as Chimney Swift habitat.
- Provision of a detailed Parking Management Strategy.
- Provision of a Photometric Lighting Plan.
- Provision of a detailed Landscape Plan completed by an Ontario Landscape Architect (OLA).
- Provision of a 4 m high, 40 m long noise attenuation fence along the north (side) lot line. The fence shall be offset from the northern lot line and shall have landscaping, which may include trees, shrubs, perennials, or a combination thereof, provided along both the north and south sides.
- Installation of an ecology unit on the kitchen hood, as recommended by the Land Use Compatibility (Noise) Study.
- Confirmation of the location and specifications of the condensing units.

- Provision of a detailed Servicing Plan and subsurface utility investigation to determine the condition of service laterals.
- Provision requiring that the third storey windows on the north façade of the 1869-1877 Jail building have a screen or treatment applied such that 100 per cent (100%) of the window area is opaque to minimize overlook onto the rear yard of the adjacent residential property.

Financial Implications:

OPA and ZBA application fees were collected in the amount of \$7,380 as well as \$790 for GSCA.

Communication Strategy:

Notice of Complete Application and Public Meeting was given in accordance with the requirements of the Planning Act.

A courtesy notice was given to notify those who attended the public meeting and/or provided written comments that Council would be rendering a decision on the application at its October 23rd meeting.

Notice of Decision will be given following Council's decision on the matter and a twenty (20) day appeal period will follow the notice.

Consultation:

The application was circulated to various City departments and external commenting agencies as part of the consultation process.

Attachments:

Schedule 'A': Orthophoto

Schedule 'B': Official Plan and Zoning Map

Schedule 'C': Property Details

Schedule 'D': Architectural Drawing Set

Schedule 'E': Draft Official Plan Amendment

Schedule 'F': Draft Zoning By-law Amendment

Schedule 'G': Zoning Conformity

Schedule 'H': Agency Comments

Schedule 'I': Public Meeting Minutes and Public Comments

Recommended by:

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