

Staff Report

Report To: City Council
Report From: Pamela Coulter, Director of Community Services
Meeting Date: May 27, 2024
Report Code: CS-24-045
Subject: Draft Lease Agreement with Royal Rose Court for 1399 2nd Avenue East

Recommendations:

THAT in consideration of Staff Report CS-24-045, respecting a draft lease with Royal Rose Court for 1399 2nd Avenue East (former Public Works location), City Council directs staff to bring forward a by-law to authorize the Mayor and Clerk to execute the lease substantially in the form described in the report.

Highlights:

- The City sold the former Courthouse and Jail in 2022 to Nick Ainis in Trust. The Agreement of Purchase and Sale prescribed certain timelines relating to the redevelopment approvals process.
- The subject property is proposed to be developed as a wedding and event venue and the requisite Official Plan and Zoning By-law amendments required to facilitate the redevelopment were approved by Council on October 23, 2023, and the site plan approval process is underway.
- The recommendation report (CS-23-111) relating to the proposed Official Plan and Zoning By-law amendments addressed the provision of parking and noted that an agreement would be required to provide off-site parking on lands owned by the City.
- A draft lease agreement is provided for lands at 1399 2nd Avenue East to provide approximately 75 off-site parking spaces.

Strategic Plan Alignment:

[Strategic Plan](#) Priority: Prosperous City.

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, 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:

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-24-045: Draft Lease Agreement with Royal Rose Court for 1399 2nd Avenue East

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 [CS-23-090](#) – OPA 13 and ZBA 49

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

Staff Report [CS-23-129](#) – Agreement of Purchase and Sale – Royal Rose Court – Extension of Timelines

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

Background:

In 2022, the City sold the Courthouse and Jail at 1235 and 1259 3rd Avenue East to Nick Ainis in Trust.

The redevelopment proposes to adaptively reuse 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, and 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 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

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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.

In October of 2023, Council considered Staff Recommendation Report CS-23-111 regarding the Official Plan and Zoning By-law Amendments.

The approved Zoning By-law Amendment for the property includes special provisions relating to the provision of parking. The following is an excerpt from the Parking analysis section of Staff Recommendation Report CS-23-111:

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.

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 purpose of this report is to present the draft lease agreement for lands at 1399 2nd Avenue East (see Attachment 1) for the purpose of providing an additional 75 parking spaces to support the redevelopment of the historic Courthouse and Jail.

Analysis:

1399 2nd Avenue East is the former City Public Works property. The lands have been vacant for years and were used subject to an agreement with Sunbelt for storage of items relating to a nearby business and most recently have been used as a staging area to support the installation of high-speed fibre in the City.

The lands are designated Waterfront Mixed Use on Schedule "A" – Land Use of the City's 2021 Official Plan and are zoned Mixed Use Commercial (MC) by the City's Zoning By-law (2010-078), as amended.

The Waterfront Mixed Use designation is intended to integrate a broad array of industrial, residential, office, retail and service uses implemented through the Zoning By-law. The MC Zone permits parking areas or structures subject to certain site requirements. Site Plan Approval will be required prior to the development of the lands as a parking lot.

The City's solicitor has prepared the draft lease agreement together with staff and Mr. Ainis representing Royal Rose Court (owner of Courthouse and Jail).

The following points merit note from the draft lease:

- Lands are provided 'as is'.
- The lease term is 12 years. Two years during the approval and construction phase and then 10 years after that. For the first seven years (2023 to 2030), the rent is \$1 acknowledging the significant investment of capital required to develop the property as a commercial parking lot. For the remaining 5 years (2031 to 2035), the annual rent is \$10,000.
- Provided the tenant is in compliance with their obligations, there are two further rights of renewal of a further 10 years each.

- Property taxes payable by the tenant.
- City not to sell the lands during the term of the lease.
- City has to approve any assignment of the lease. The tenant of the parking lot is through this agreement, tied to the owner/developer of the Courthouse and Jail lands. This ensures that the parking is available to the Courthouse and Jail development.
- The agreement gives the tenant the ability to enter into a site plan agreement on the lands that are under City ownership.
- Prior to the development of the lands as a parking lot, the agreement acknowledges that site plan approval is required.
- Tenant provides \$5,000,000 in general liability insurance, naming the City as an additional insured and indemnification clauses.
- The lease includes provisions if there is a default that provides a certain timeline for the tenant to take corrective steps, and if not, the lease is terminated.
- The tenant can terminate with 60 days notice to the City; if so, they have to advise how they will meet the zoning requirements for parking for the Courthouse/Jail redevelopment, Royal Rose Court.

Financial Implications:

Following the first seven (7) years, the City will receive \$10,000 per year for the lease of the lands. The lease is important to provide for the redevelopment of the historic Courthouse and Jail and the rejuvenation of that area as part of the project.

Communication Strategy:

Staff Recommendation Report CS-23-111 to Council had noted that this lease was pending.

Consultation:

City Solicitor, Planning and Heritage Staff, proposed Tenant.

Attachments:

1. Map of 1399 2nd Avenue East

Recommended by:

Pamela Coulter, Director of Community Services

Submission approved by:

Tim Simmonds, City Manager

For more information on this report, please contact Pamela Coulter, Director of Community Services, at pcoulter@owensound.ca or 519-376-4440 ext. 1252.