



Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5  
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248  
 FAX: (416) 326-5370  
 www.elto.gov.on.ca

**APPELLANT FORM (A1)**  
**PLANNING ACT**

**SUBMIT COMPLETED FORM**

**TO**  
**MUNICIPALITY/APPROVAL**  
**AUTHORITY**

Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

**Part 1: Appeal Type (Please check only one box)**

| SUBJECT OF APPEAL                           | TYPE OF APPEAL  | PLANNING ACT<br>REFERENCE<br>(SECTION) |
|---|---|--|
| Minor Variance                              | <input type="checkbox"/> Appeal a decision  | 45(12)                                 |
| Consent/Severance                           | <input type="checkbox"/> Appeal a decision  | 53(19)                                 |
|   | <input type="checkbox"/> Appeal conditions imposed  |  |
|   | <input type="checkbox"/> Appeal changed conditions  | 53(27)                                 |
|   | <input type="checkbox"/> Failed to make a decision on the application within 90 days  | 53(14)                                 |
| Zoning By-law or<br>Zoning By-law Amendment | X Appeal the passing of a Zoning By-law   | 34(19)                                 |
|   | <input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days | 34(11)                                 |
|   | <input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality                                  |  |
| Interim Control By-law                      | <input type="checkbox"/> Appeal the passing of an Interim Control By-law  | 38(4)                                  |
|   | <input type="checkbox"/> Appeal a decision  | 17(24) or 17(36)                       |
|   | <input type="checkbox"/> Failed to make a decision on the plan within 180 days  | 17(40)                                 |

|   |   |                  |
|---|---|------------------|
| Official Plan or<br>Official Plan Amendment | <input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days | 22(7)            |
|   | <input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality                                  |                  |
| Plan of Subdivision                         | <input type="checkbox"/> Appeal a decision  | 51(39)           |
|   | <input type="checkbox"/> Appeal conditions imposed  | 51(43) or 51(48) |
|   | <input type="checkbox"/> Failed to make a decision on the application within 180 days   | 51(34)           |

## Part 2: Location Information

75 Dublin Street North

Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of Guelph

## Part 3: Appellant Information

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Upper Grand District School Board

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): \_\_\_\_\_

E-mail Address: Jennifer.Passy@ugdsb.on.ca

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: (519) 822-4420 ext. 820 Alternate Telephone #: (519) 766-3418

Fax #: \_\_\_\_\_

Mailing Address: 500 Victoria Road North,  
Street Address

Apt/Suite/Unit#

Guelph  
City/Town

Ontario  
Province

Country (if not Canada)

N1E 6K2  
Postal Code

Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature not required if the appeal is submitted by a law office.)

**Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.**

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

## Part 4: Representative Information (if applicable)

**I hereby authorize the named company and/or individual(s) to represent me:**

First Name: A. Milliken Last Name: Heisey Q.C.

Company Name: Papazian Heisey Myers

Professional Title: Lawyer

E-mail Address: heisey@phmlaw.com

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 416-601-2702

Alternate Telephone #: \_\_\_\_\_

Fax #: 416-601-1818

Mailing Address: 121 King Street West, Suite 510,  
Street Address  
Toronto, Ontario, M5H 3T9

Apt/Suite/Unit#

City/Town

Province

Country (if not Canada)

Postal Code

Signature of Appellant: \_\_\_\_\_ Date: December 19, 2016

*Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.*



I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

### Part 5: Language and Accessibility

Please choose preferred language: ☒ English ☐ French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

### Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

City of Guelph Zoning Bylaw (2016)-20113, Municipal File No. ZC1612A

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). \*\*If more space is required, please continue in Part 9 or attach a separate page.

(Please print)

See Notice of Appeal attached

**THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.**

- a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** \_\_\_\_\_  
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

- b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:  
\*\*If more space is required, please continue in Part 9 or attach a separate page.

**Bill 73 - This question applies only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016.**

1. Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?
- No
  - Yes

**Part 7: Related Matters (if known)**

Are there other appeals not yet filed with the Municipality?

YES

☐

NO

☐

Are there other planning matters related to this appeal?

YES

X

NO

☐

(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

The City of Guelph is advancing the Downtown Zoning Bylaw to implement approved Official Plan Amendment No. 43 the Downtown Secondary Plan.  
Zoning Bylaw (2016)-20113 is part of the Downtown Zoning Bylaw process which has not been passed for the balance of the Downtown Secondary Plan Planning Area other than for the 75 Dublin Street North property.  
The City of Guelph also initiated an site specific Official Plan Amendment for 75 Dublin Street North, City of Guelph File No (OP1603) proposing to permit a maximum 5 storey maximum building height. The approved Official Plan Amendment 43 to the City of Guelph Official Plan designates 75 Dublin as Mixed Use 2 area, which permits low-rise buildings a minimum of 2 to a maximum 4 stories in height that are residential in character. The City of Guelph Council decided not to approve the proposed City Official Plan Amendment on November 30, 2016 at the same time as it approved Zoning Bylaw (2016)-20113.

**Part 8: Scheduling Information**

How many days do you estimate are needed for hearing this appeal? ☐ half day ☐ 1 day ☐ 2 days ☐ 3 days

☐ 4 days ☐ 1 week X More than 1 week – please specify number of days: 6-8 days

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?

3-4 witnesses

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):

Land use planner, traffic engineer, representative of the Upper Grand District School Board and possibly a staff member of the Central Public School/educator

Do you believe this matter would benefit from mediation?

YES

X

NO

☐

(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference?

YES

X

NO

☐

(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why?

There will probably be 3-4 separate parties represented by legal counsel all calling expert witnesses. There may be some issues capable of resolution with the City of Guelph. A prehearing conference would narrow the issues and is needed to organise the order of evidence etc.

**Part 9: Other Applicable Information \*\*Attach a separate page if more space is required.**

See Notice of Appeal

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**Part 10: Required Fee**

**Total Fee Submitted:** \$ 300

**Payment Method:** ☐ Certified cheque ☐ Money Order ☒ Solicitor's general or trust account cheque

- The payment must be in Canadian funds, **payable to the Minister of Finance.**
- **Do not send cash.**
- **PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.**

December 20, 2016

**DELIVERED**

Mr. Stephen O'Brien  
Clerk of the City of Guelph  
Guelph City Hall  
1 Carden Street  
Guelph, ON N1H 3A1

**RECEIVED**

DEC 21 2016

Service Guelph  
City of Guelph

9:05 a.m.  
Jana Temple  
Legal Services

Dear Mr. O'Brien:

**Re: Notice of Passing of Zoning Bylaw (2016)-20113 Amendment to the Downtown Zoning Bylaw dated December 1, 2016**  
**Re: 75 Dublin Street North**  
**Re: City of Guelph File No. (ZC1612A)**

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Please be advised that we are the solicitors for the Upper Grand District School Board. Please consider this letter and attachments a Notice Appeal by the Upper Grand District School Board from the passing of City of Guelph Zoning Bylaw (2016)-20113 passed by Guelph City Council for property at 75 Dublin Street North (hereinafter "75 Dublin") on November 30, 2016.

75 Dublin is located at the northeast corner of Dublin Street North and Cork Street West at the western edge of the City of Guelph's Downtown Secondary Plan area, just south of, and immediately adjacent to the Central Public School and playground, owned and operated by the Upper Grand District School Board, located at 97 Dublin Street North.

Central Public School

Central Public School is one of the oldest school sites in the City of Guelph, if not the Province of Ontario. A public school and playground has existed at 97 Dublin Street North for approximately 140 years. The current one storey school building was constructed in 1968 to replace the original structure. There are currently 213 JK-Grade 6 students enrolled and approximately 18 full time equivalent staff employed at the School. Central PS is the only operating school remaining in Guelph's downtown.

The Upper Grand District School Board's mission and vision includes fostering achievement and well-being and creating positive and inclusive learning environments.

The Downtown Zoning Bylaw

In June 2015 City of Guelph Council directed Planning Staff to advance a process to update the zoning regulations that apply to Downtown Guelph to align with the approved Downtown Secondary Plan (hereinafter "the Downtown Zoning Bylaw").



In September 2016 City Council directed City Planning staff to bring forward the portion of the Downtown Zoning By-law related to 75 Dublin. The City of Guelph characterized the process leading up to the passing of Zoning Bylaw (2016)-20113 as inter alia “a City-initiated revision to the Downtown Zoning By-law” as it pertains to 75 Dublin.

The Downtown Zoning Bylaw is a draft Zoning Bylaw not yet adopted by Council of the City of Guelph that is being advanced to bring the zoning for downtown Guelph, which includes 75 Dublin, into conformity with the Downtown Secondary Plan adopted as Official Plan Amendment No 43 to the City of Guelph Official in 2012. It is presented by the City that Zoning Bylaw (2016)-20113 is a bylaw to be passed by the City of Guelph pursuant to the requirements of Section 26(9) of the Planning Act.

#### Objections to Zoning Bylaw (2016)-20113 and Reasons For Objections

##### 1. The City Of Guelph Failed To Comply With The Provisions Of Section 34 Of The Planning Act In Processing The Bylaw.

The zoning amendment process leading to the passing of Bylaw (2016)-20113 was initiated to facilitate a specific development proposal by a specific landowner. The City not did apply the policies of Section 9.3 of the Official Plan prior to initiating the processing of this City initiated Zoning amendment.

Guelph City Council held a public meeting on October 17, 2016 concerning the proposed zoning bylaw amendment and a related City initiated Official Plan Amendment in accordance with its own direction to Staff on September 12, 2016. The public did not have available, or available in a reasonable time, before the meeting, sufficient information and material to enable the public to understand generally the zoning proposal.

A Transportation Impact Study and Detailed Shadow Study submitted by the proponent of the residential apartment building, both dated October 17, 2016 and relied upon by city staff in their reporting to Council was only available to the public, and the School Board, one business day before the October 17, 2016 public meeting. Both of the issues addressed by these reports were of concern to the School Board and related to both shadow impacts to the school property along with traffic and parking issues.

In addition, no Heritage Impact Assessment was available and a Cultural Heritage Impact Assessment, again prepared by the proponent of the residential apartment building, was only provided two days after the October 17, 2016 Statutory Public Meeting.

A revised proposal and supporting materials were posted by the City of Guelph on or after October 24, 2016 including a concept plan, elevation drawings, revised Cultural Heritage Resource Impact Assessment, Pedestrian Wind Assessment, floor plans, revised shadow study and photo renderings of views from Central Public School.

## 2. Zoning Bylaw (2016)-20113 Does Not Conform To The Official Plan For The City Of Guelph

Council failed to consider the compatibility of the scale and articulation of buildings within Mixed Use area 2, and particularly; further, council did not fully consider the shadow impacts of the proposed development on Central Public School, thereby failing to establish that a change of use on the site was consistent with the Official Plan.

### Official Plan Policy 3.5.2

#### OPA 48, 4.8.4.1 (under appeal)

Alternative development concepts at different heights below 4 stories were not considered in order to determine how best to achieve Official Plan objectives.

### Official Plan Policy 3.8 – Energy Conservation and Climate Change Protection

Council failed to consider Policy 3.8.7, "...the City may pass by-laws or otherwise regulate the height and construction on lands which would cast shadows on an adjacent building." Central Public School's photovoltaic solar array has been in operation since 2012 and a 4 storey building has been demonstrated to cast shadow on the photovoltaic cells.

### OPA 43 Objectives (c), (d), (e), (g)

Council ignored the impact of different scales of development at 75 Dublin and did not consider reducing the impacts on Central Public School by addressing 2 and 3 storey alternative development concepts

#### 11.1.7 – Objective (g)

Council failed to consider the character of downtown Guelph and surrounding neighbourhoods.

##### 11.1.7.4.1 – Mixed Use 2 Areas

Council failed to consider the predominant low-rise character of the area surrounding 75 Dublin and therefore it failed to maintain that very character as expressed in applicable policy; Council further failed to consider the impact of residential development at the proposed scale on the adjacent Central Public School.

Official Plan Amendment 43 designates 75 Dublin as Mixed Use 2 area, which permits low-rise buildings at a minimum of 2 to a maximum 4 stories in height that are residential in character. Individual circumstances of each application need to be addressed to determine the appropriate height of a building in order to demonstrate compatibility as set out in the City's Official Plan.



#### 11.1.7.4.4 (a), (b)

75 Dublin is one of the highest elevation locations on the west side of the City of Guelph. There is also a significant grade difference between the Central Public School playground and 75 Dublin which serves to increase the effective shadow impact of the of any building on 75 Dublin on Central Public School and its associated playgrounds. A zoning bylaw for 75 Dublin St. to implement the designation for the property should have established a height limit in the lower range of the Official Plan height limits to mitigate the effect to the school property and create a compatible relationship of built form to the school

Given the elevation change between the school and 75 Dublin a 2 storey building on this property, as viewed from the School playground or from the south on Cork Street will be effectively experienced as a 4 – 5 storey building. A 4 storey building would therefore be experienced as a 6 – 7 storey building from the same vantage points. Contrary to sections 2.3.6 of the Official Plan, the 4 storey height in the proposed zoning change is not sympathetic to, and compatible with the built form of the existing school land use. A 4 storey building as proposed to be permitted by Zoning Bylaw (2016)-20113 creates unacceptable massing, overlook and shadow impacts on the Central Public School, its associated playgrounds and the photovoltaic cells located on the roof of Central Public School.

### 3. Inadequate Setbacks, Stepbacks And Excessive Height Permitted By The Zoning Bylaw

The combination of the zoning regulations in Zoning Bylaw (2016)-20113 and in particular the maximum height, minimum front yard, sideyard and rear yard setbacks, and building stepbacks would constitute an overbuilding of the site with resulting unacceptable impacts, including overlook and shadow to the school from the resultant mass and positioning of the building on the property.

### 4. There Is No Maximum Floor Space Index In The Zoning Bylaw

Zoning Bylaw (2016)-20113 provides a minimum floor space index but no maximum. Given the sensitivity of 75 Dublin located between Central Public School and the Basilica of Our Lady Immaculate, a National Historic Site a maximum FSI should be incorporated into the zoning bylaw as a performance standard.

### 5. Parking conflicts and Main Entrance Location 75 Dublin

The location of the main entrance of the proposed building 75 Dublin should be secured in any zoning bylaw for 75 Dublin and be required to be located at the extreme southwest corner of 75 Dublin or on Cork Street.

The front entrance of Central Public School is located on the east side of Dublin Street North. 75 Dublin Street is located adjacent to the Dublin Street North parking layby which has been created on the east side of Dublin Street North, north of Cork Street within the road allowance for the exclusive use of the school community during school hours.

If the main entrance of 75 Dublin is located on Dublin Street North it will create conflicts between apartment and school users, and raises safety concerns that the Board does not feel were adequately addressed by the City and are too important to leave until the site plan approval stage.

#### 6. Inadequate Minimum Front Yard Setback and the Intersection of Dublin Street North and Cork Street

Cork Street significantly rises in elevation from east to west to its intersection with Dublin Street North. The intersection can be used by students, staff and parents of Central Public School walking to the school from the south on Cork or the west on Cork.

Upper Grand District School Board is of the opinion that the 3 metre minimum front yard setback is inadequate for the safe operation of the intersection and should be increased in the zoning bylaw for 75 Dublin.

#### 6. Zoning Bylaw (2016)-20113 not consistent with the Provincial Policy Statement 2014

Upper Grand District School Board will rely on Sections 1.6.11.2, 1.7(i) and 1.8.1 (f) 2 of the Provincial Policy Statement 2014.

The Central Public School is a sensitive land use as defined in the Provincial Policy Statement.

There is constructed on the roof of Central Public School photovoltaic cells that generate electricity for the City of Guelph's municipally owned electrical distribution system and revenue for the Upper Grand District School Board. These photovoltaic cells constitute a "renewable energy system" as defined under the Provincial Policy Statement 2014.

A 4 storey building as permitted by Zoning Bylaw (2016)-20113 at 75 Dublin, which is located to the south of Central Public School, creates shadow impact during the winter months on the photovoltaic cells and does not "promote design and orientation which maximizes opportunities for the use of *renewable energy systems*..." and in fact does the opposite.

In 2011, Ontario Regulation 397/11 made under the Green Energy Act came into effect. This legislation outlines that all public agencies, including school boards "shall prepare, publish, make available to the public and implement Energy Conservation and Demand Management plans."

The Upper Grand District School Board is strongly committed to continue to support leadership in the development of knowledge, skills, perspectives, and practices in order to foster environmentally responsible citizens. In addition, the board is dedicated to expand current energy conservation initiatives by developing strategies to reduce energy consumption and greenhouse gas (GHG) emissions and to incorporate these values into students' educational programs. Renewable energy sources, such as the 43 solar photovoltaic cells installations throughout the district, including Central Public School, form part of the Board's plan.

#### 7. Such further and other Objections and Reasons as may be raised before the Board

In addition to the reasons outlined above Upper Grand District School Board adopts and incorporates into this Notice of Appeal, the objections and reasons for those objections set forth in the letters, and attachments, to City Council dated October 12 and November 24, 2016 attached.

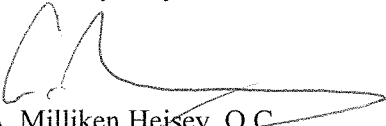
Attached hereto please find the following:

1. Completed form A1 of the Ontario Municipal Board.
2. Letter from Papazian Heisey Myers solicitors for the Upper Grand District School Board to Guelph City Council dated October 12, 2016.
3. Letter from Papazian Heisey Myers solicitors for the Upper Grand District School Board to Guelph City Council dated November 24, 2016.
4. Planning report from WND Associates Land Use Planning & Urban Design retained by the Upper Grand District School Board dated November 7, 2016 provided to Guelph City Council.
5. Our firm cheque in the amount of \$300 payable to the Minister of Finance

Please acknowledge receipt of this Notice of Appeal in writing.

Should you require any further information please contact the author.

Yours very truly,



A. Milliken Heisey, Q.C.

cc: Martha Rogers, Director of Education, Upper Grand District School Board  
Mark Bailey, Chair, Upper Grand District School Board  
Linda Busuttil, Trustee, Upper Grand District School Board  
Susan Moziar, Trustee, Upper Grand District School Board  
Glen Regier, Superintendent of Finance, Upper Grand District School Board  
Jennifer Passy, Manager of Planning, Upper Grand District School Board  
Clerk of the City of Guelph (clerk@guelph.ca)  
Councillor Phil Allt Ward 3  
Councillor June Hofland Ward 3

October 12, 2016

Via email: [mayor@guelph.ca](mailto:mayor@guelph.ca)

His Worship Mayor Cam Guthrie  
and Members of Council  
City of Guelph  
Guelph City Hall  
1 Carden Street  
Guelph, Ontario  
N1H 3A1

Your Worship and Members of Council

**Re: 75 Dublin Street North**  
**Re: Downtown Zoning Bylaw Amendment and Applications OP1603 and ZC1612**  
**Re: City of Guelph Council Meeting October 17, 2016**

Please be advised that we have been retained by the Upper Grand District School Board with respect to the above referenced development proposal and proposed planning instruments.

Our client owns and operates the Central Public School, located at 97 Dublin Street North immediately to the north of the above referenced property. Central PS has approximately 200 JK-Grade 6 students enrolled and 18 full time equivalent staff.

Central Public School is one of the oldest school sites in the City of Guelph and a public school has operated on the same site for approximately 140 years. The current school building was constructed in 1968 to replace the original structure. Central PS is the only operating school remaining in Guelph's downtown.

The School Board has serious concerns with this development proposal and the Downtown Zoning Bylaw Amendment as it affects this property and has insufficient information from the development application as currently filed to support it. The School Board met with City Planning and the developer on September 12 to discuss the development proposal but many serious issues remain outstanding.

The School Board's preliminary concerns are as follows:

Shadow

As a starting point, our client is concerned that the shadow drawings provided by the Applicant may not reflect the significant elevation difference between the first floor of the proposed building and the Central PS playground to the east of the school building. If the elevation difference has not been accounted for the actual shadows cast on the school may be considerably worse than those shown on the shadow drawings provided by the Applicant. Our comments below are subject to further information being provided by the Applicant.

The shadows shown on the drawings provided by the Applicant demonstrate significant shadowing on the school yard to the east of the school building during late fall/winter. Unlike most other uses, outdoor school yards are used for school programming year round during the school day which can start as early as 7:30 am. Our client believes natural sunlight on the playground is beneficial and necessary to an outdoor play environment for children, particularly during the winter.

Further, Classrooms are located with windows facing both the westerly and easterly sides of the building, and lie within the areas of the building shown in shadow. We are unclear of the impact of reduced indirect light on class room windows on the easterly and westerly façades of Central PS.

Finally, photovoltaic cells are located on the roof top of Central PS and provide green energy into the City's electrical distribution system, and revenue to the School Board on a monthly basis. The shadow drawings provided by the Applicant show shadow from the proposed building falling on the school roof which will result in a loss of revenue to the School Board due to reduced electricity generation.

#### Inadequate Setbacks

Our preliminary review of this development application suggests that a large part of the shadow cast in the school playground during the winter months emanates from the proposed reduction in the required rear yard setback for this development from 10 metres to only 3 metres. It may be that better conformity to the rear yard setback standard would reduce the shadow impacts on the school playground.

The northerly side yard setback of 3 metres from the school southerly property boundary with the massing and height proposed is also problematic. The outdoor play area for Full Day Kindergarten (JK/SK) students is located adjacent between the westerly building face and the street line. This area is immediately adjacent to the northwest corner of the proposed building.

#### Parking

The School Board is concerned with the failure to provide any on-site guest parking for the proposed development and the proposal to significantly reduce the required on-site parking for residents.

It is the Board's understanding that there is currently a problem with people who work in the downtown but park on streets in the surrounding area. This overflow parking takes up already limited on-street parking surrounding the school and subject property.

There are 17 on-site parking spaces at Central. The school community relies heavily on the existing Dublin Street North layby on the east side of Dublin Street North, immediately in front of 75 Dublin Street North, for parent drop-off and pick-up. This "kiss-n-ride" is designated by the City for the use of the school community during school hours. The parking layby is also used by parents/guardians who attend at the school during the school day for interviews and is used by the school community for special school occasions during the evening.

#### Suggested Amendments and Need for More Information

Prior to further consideration by Council of this application, the School Board would request the following:

1. That any height limit for this property be expressed in the planning instruments in an absolute number based on geodetic elevation datum, not in stories. The height of a residential storey can vary enormously with ceiling height. The proximity of the Central Public School and its playground together with the Basilica of Our Lady Immaculate, a National Historic site, being located right across the street suggests a more defined building envelope is required to ensure that the impact of the proposed building is understood and controlled. Any height limit should include mechanical penthouses and partially or wholly above ground parking facilities.
2. Our concern in terms of the building's ultimate massing is underscored by the Applicant proposing a minimum FSI for the proposed building of 0.60 but no maximum FSI. Given the sensitivity of this site being adjacent to an elementary school and nationally significant heritage building, an acceptable maximum FSI should be provided by the Applicant and enshrined in the site specific OPA and ZBA, if adopted.
3. That the planning instruments should provide that no balconies or main room windows be permitted on the northerly face of the building, overlooking the school site.
4. To reduce conflicts between school drop-off/pick-up and resident visitor parking demands, in the Dublin Street North layby, the school board would request that it be a condition of any approval and a policy in the OPA and ZBA that the main entrance to any proposed development should be located on Cork Street West.
5. New shadow drawings need to be provided that address the matters raised in my email to the Applicant's planner of October 6, 2016 which is attached to this letter. Specifically, the Applicant should be required inter alia to provide shadow drawings for the building envelope permitted by the proposed Downtown Zoning Bylaw including both height and minimum required building setbacks.

The lack of necessary information is underscored by what appears to be an incomplete application. As of the writing of this letter, four days before the public meeting to consider these applications, the Applicant has failed to provide a traffic impact study, full elevation drawings for all facades, and a Heritage Impact Assessment.

The absence of this information leads to the question whether the applications before Council comply with section 9.3 of the Official Plan Pre-Consultation and Complete Application requirements.

Although the School Board is fully supportive of the need for more affordable housing there is insufficient information available at this time to support this development application.

#### Comments concerning the Downtown Zoning Bylaw

Consideration needs to be given to expanding the 45 degree plane required for new Downtown Zones abutting R1, R2 or R3 zones to include sensitive Institutional uses like the Central Public School.

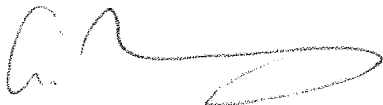
Given the significant elevation difference on Dublin Street North with lands to the east, a lower height limit, expressed in geodetic elevation datum for properties fronting on Dublin Street North needs to be considered in the Downtown Zoning Bylaw, other than the imprecise 4 stories permitted in the Official Plan. An Official Plan is not a guarantee of development and an application may or may not be able to implement the full potential of the permissions in the Official Plan. The height limit in the vicinity of the Central Public School and the Basilica of Our Lady Immaculate should also include mechanical penthouses.

We would also recommend Council institute a maximum FSI in the Downtown Zoning Bylaw as well.

Please acknowledge receipt of this letter in writing.

Please provide the author with notice of the passing of the Downtown Zoning Bylaw or any part of it, notice of passing of any zoning bylaw amendment pursuant to application ZC1612 and notice of adoption of any official plan amendment application pursuant to application OP1603.

Yours very truly,



A. Milliken Heisey, Q.C.  
AMH/cmb

Attachment

cc: Upper Grand District School Board  
Clerk of the City of Guelph  
Linda Bussuttil Trustee  
Susan Moziar Trustee  
Councillor Phil Allt Ward 3  
Councillor June Hofland Ward 3  
clerk@guelph.ca



## Alan Heisey

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**From:** Alan Heisey  
**Sent:** Thursday, October 6, 2016 3:22 PM  
**To:** 'Jennifer Passy'  
**Cc:** Bob Dragicevic  
**Subject:** 75 Dublin Street North - City of Guelph - OP1603 and ZC1612

I have been retained to act for the Upper Grand District School Board in relation to the Central Public School which has existed on the adjacent site to the north of 75 Dublin Street since 1876.

We are in the preliminary stages of our review.

Shadow is of serious concern to our client given the impacts demonstrated on the shadow drawings provided to date on both the school yard and the photovoltaic panels on the roof of the school.

Further to Ms. Passy's email to you of September 21 I am writing to request the following additional information in relation to the shadow.

1. The buildings modelled are 4 and 5 stories. What is the actual height in metres of the buildings modelled both above grade and the geodetic height of the buildings?
2. Does the shadow drawing include a mechanical penthouse? If one is proposed could you advise its height and location of the mechanical penthouse? We would request revised shadow drawings that include a mechanical penthouse in the location and of the height proposed.
3. The modelling purports to show the shadow for a 4 story building but does not include the required minimum setbacks in the City's new proposed bylaw and other minimum bylaw requirements. Has an as of right shadow been generated that includes in particular the 10 metre rear yard setback. Please provide same.
4. What time is used for the shadow drawings? i.e. Eastern Standard Time and /or depending on the time of year Daylight Savings Time.
5. We are concerned by the grades shown on the Functional Servicing Report. The elevations used do not seem to reflect the grade changes which our client estimates between 2.5 metres to 4 metres between the rear and side yard of 75 Dublin Street North and the school yard at Central Public School. Can you please advise where the grade elevations are taken from and whether the shadow drawings reflect the change in grade in the school yard to the north where the topography falls off? A significant change in grade if unaccounted for could extend the shadows further onto the school property.
6. We would request shadow drawings showing 30 minute intervals starting at 700 am for both EST and DST on a larger scale that would enable us to assess the impact on the school yard and photovoltaic cells. We would request the revised shadow drawings address the concerns raised above for both an as of right scenario complying with all minimum setbacks and the proposed development.

Other areas raise concern.

1. The proposed zoning bylaw proposes a minimum FSI of .6 but no maximum FSI. What is the FSI of the proposed building?
2. Has the applicant prepared elevations and drawings showing the proposed building from all 4 sides. Would you please provide same so we can review the character of the building in relation to the adjacent neighbourhood and school?
3. Are there any balconies or main room windows proposed in the northerly face of the building adjacent to the school?
4. The planning report indicates that a heritage impact assessment was to have been completed? If so please provide a copy of the assessment and a copy of the building elevations, materials façade etc details provided to the heritage planner or architect in preparing their opinion.

Given the limited amount of time available before the public meeting we would ask that this information be provided by the end of next week.

A. Milliken Heisey Q.C.

**Papazian | Heisey | Myers, Barristers & Solicitors**

Standard Life Centre, Suite 510, 121 King St. W., P.O. Box 105, Toronto, ON M5H 3T9

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[Website](#) | [Bio](#)

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November 24, 2016

Via email: [mayor@guelph.ca](mailto:mayor@guelph.ca)

His Worship Mayor Cam Guthrie  
and Members of Council  
City of Guelph  
Guelph City Hall  
1 Carden Street  
Guelph, Ontario  
N1H 3A1

Your Worship and Members of Council

Re: 75 Dublin Street North  
Re: Downtown Zoning Bylaw Amendment and Applications OP1603 and ZC1612  
Re: City of Guelph Council Meeting November 28, 2016

Please be advised that we have been retained by the Upper Grand District School Board with respect to the above referenced development proposal and proposed planning instruments.

Our client owns and operates the Central Public School, located at 97 Dublin Street North immediately to the north of the above referenced property. Central Public School is one of the oldest school sites in the City of Guelph and a public school has operated on the same site for approximately 140 years. The current school building was constructed in 1968 to replace the original structure. Central PS is the only operating school remaining in Guelph's downtown. It is the Board's view that Central PS will be on Dublin Street North for many generations to come.

The Upper Grand District School Board's mission and vision includes fostering achievement and well-being and creating positive and inclusive learning environments. The Board is concerned with the access of its students to natural sunlight on school playgrounds throughout the school year and the safety and privacy of the Central PS school community. It is this lens which informs the Board's position with respect to the proposal for the development of 75 Dublin Street North.

Our client is of the opinion that both the proposed 5 storey development and the four storey alternative recommended by City Staff constitute an overbuilding of the site, with unacceptable massing and overlook, inadequate setbacks and landscaping and unacceptable shadow impacts.

Bob Dragicevic a well-regarded land use planner with significant experience advising school boards was retained to provide his comments concerning this development proposal. A copy

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F: 416 601 1818

of Mr. Dragicevic's comments was forwarded to City Planning Staff November 8 and is attached for Council's information.

Notwithstanding the changes to the development proposal by the owner of 75 Dublin Street North and staff's recommendations as described in Report Number 16-85 "Decision Report, City-initiated Official Plan Amendment (OP1603), Proposed revision to the Downtown Zoning By-law Amendment (ZC1612) as it pertains to 75 Dublin Street North" our client still has serious concerns with the development proposed for this site and cannot support the City-initiated amendments.

The location of the main entrance of the proposed building on Dublin and its close proximity to the Dublin Street parking layby will create conflicts between apartment and school users, and raises safety concerns that the Board does not feel have been adequately addressed. The two guest parking spaces located in or adjacent the underground parking garage, which has its driveway off of Cork Street, are questionably functional, inconveniently located to the main entrance, and will not be an attractive parking option for guests of this building.

#### Amendments to the Proposed Downtown Zoning Bylaw or a Site Specific Bylaw Amendment

The Board agrees with City staff that site specific zoning is required to address this property's unique characteristics and its relationship to adjacent land uses.

City staff places considerable reliance on the "as of right" Institutional zoning for this property in assessing the development proposal and making recommendations for amendments to the proposed Downtown Zoning Bylaw.

We are perplexed how an "as of right condition" analysis has applicability when there is before Council proposed changes in use, maximum height limit in the Official Plan and in the site regulations.

It is our position that the current Institutional zoning is not in conformity with the recently adopted Downtown Secondary Plan and that although the performance standards for the Institutional zoning might assist in informing a land use planning analysis for this site, site specific zoning must be informed first by, and be in conformity with, the approved official plan.

The Official Plan for this site designates the property as Mixed Use 2 area, which permits low-rise buildings a minimum of 2 to a maximum 4 stories in height that are residential in character. Individual circumstances of each application need to be addressed to determine the appropriate height of a building in order to demonstrate compatibility as set out in the City's Official Plan.

The Official Plan designation for this property does not guarantee a 4 storey building within this property's land use designation.

Even under the shadow generated by City Staff's 4 storey proposal, with the recommended setbacks and stepbacks, the Central PS main playground will be mostly in shadow during the morning hours in the late fall/winter and there will be a significant increase in shadow cast on the Full Day Kindergarten play yard at the front of the school during those months as well.

The shadows cast on the Central PS playgrounds by City Staff's 4 storey proposal will be considerably greater than that generated by a 2 storey building on the site and it is our opinion that the proponent or Staff should be required to demonstrate, through additional shadow analysis, the impact of that alternative in order to provide Council the complete picture, before it makes final decisions as to site specific zoning amendments for this property.

The need to examine the lower height range as permitted by the Official Plan is also suggested by the significant grade difference between the school playground and the property which increases the impact of the height of any building on this site. Effectively a 2 storey building on this property, as viewed from the School playground or from the south on Cork Street will be experienced as a nearly 4 – 5 storey building. A 4 storey building will be experienced as a 6 – 7 storey building from the same vantage points. Contrary to the Official Plan, the 4 storey proposal does not respond appropriately to the conditions of the site and surroundings.

We would request that site specific zoning by-law amendments adopted by Council for this property to the proposed Downtown Zoning Bylaw should include the following matters:

1. An absolute height limit for this property, including mechanical penthouses and telecommunication facilities and antennae, based on geodetic elevation datum, needs to be enshrined.
2. A maximum Floor Space Index (FSI).
3. Increased minimum front yard, in keeping with the average setback of buildings along the same block face of the east side of Dublin Street North, increased side yard setbacks and the 10 metre minimum rear yard setback required in the Downtown Zoning Bylaw.
4. Prohibition of balconies or main room windows on the northerly face of the building, overlooking the school site.

5. The location of the main entrance of any new building on the property should be located on Cork Street. Issues such as main building entrance location and other site specific matters are often addressed in zoning bylaws. The Board has no rights of appeal from a site plan decision and this issue is of sufficient importance to the public interest that it should be addressed now in the site specific zoning.

Further, consideration needs to be given to expanding the 45 degree plane required for new Downtown Zones abutting R1, R2 or R3 zones to include sensitive Institutional uses like the Central Public School property and its associated playfields, play areas and student gathering areas.

Please acknowledge receipt of this letter in writing.

Please provide the author with notice of the passing of any site specific zoning bylaw amendment affecting this property, the Downtown Zoning Bylaw or any part of it, notice of passing of any zoning bylaw amendment pursuant to application ZC1612 and notice of adoption of any official plan amendment application pursuant to application OP1603.

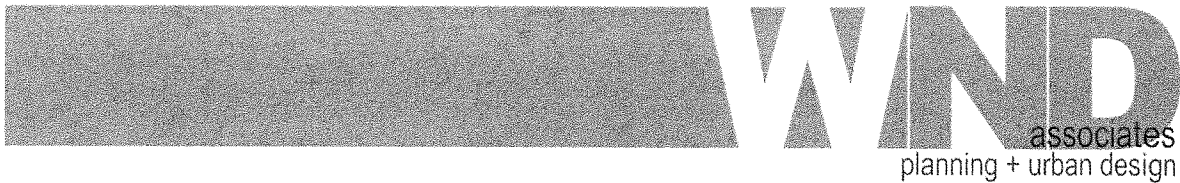
Yours very truly,



A. Milliken Heisey, Q.C.  
AMH/cmb

Attachment

cc: Martha Rogers, Director of Education, Upper Grand District School Board  
Mark Bailey, Chair, Upper Grand District School Board  
Linda Busuttil, Trustee, Upper Grand District School Board  
Susan Moziar, Trustee, Upper Grand District School Board  
Glen Regier, Superintendent of Finance, Upper Grand District School Board  
Jennifer Passy, Manager of Planning, Upper Grand District School Board  
Clerk of the City of Guelph (clerk@guelph.ca)  
Councillor Phil Allt Ward 3  
Councillor June Hofland Ward 3



7 November 2016

Papazian | Heisey | Myers, Barristers & Solicitors  
Standard Life Centre, Suite 510,  
121 King St. W., P.O. Box 105  
Toronto, ON M5H 3T9

**Attention:** Mr. Alan M. Milliken Heisey Q.C.

Dear Mr. Heisey,

**RE: 75 Dublin Street North  
Development Application  
Central Public School  
City of Guelph**

WND File No. 16.665

As requested, we have reviewed various files and reports prepared by the consultants for the residential apartment building proposed for the lands located at 75 Dublin Street North, which is adjacent to the Central Public School located at 97 Dublin Street North, at the southwest corner of Dublin Street North and Cork Street, in the downtown area of the City of Guelph ("the subject site").

We have visited the subject site and attended at a meeting with the proponent and their planning and architectural advisors at the Upper Grand District School Board offices on October 21, 2016. At that time we were advised that changes would be made to the plans submitted to the City. Amended plans were to be filed with the City on October 24, 2016.

The Central Public School has been in operation at this location for decades. A school has been located on the site since 1876.

It is the only public elementary school in the Downtown area of the City and we have been advised that this school is expected to remain as an operating school in the long term. Full day kindergarten (FDK) programming is provided at the school, and the associated play yard is located in the western portion of the school site. The area between the school building and the subject site has been improved as a Peace Garden, used by the school for quiet times and passive activity.

The Central Public School has on its rooftop an array of solar energy panels, which are operated under a 20 year contract, and provides for some financial return to the School Board. The School Board's policies



on sustainability make the continued availability of uninterrupted sunlight to these panels an important consideration for our client.

The Central Public School enjoys a pick up and drop off location in the form of a lay by on Dublin Street North, towards the southern end of the subject site and extending north along a portion of the Dublin Street North frontage of 75 Dublin Street North. A pedestrian cross walk supervised by an Adult School Crossing Guard is located on Dublin Street North at Cambridge Street.

#### The Proposed Development

The development application filed for 75 Dublin Street North ("the property") involves a 37-unit, 5-storey apartment building, with an underground parking garage accessed from Cork Street.

The building will be developed as a condominium with 17 market units and 20 units of affordable rental housing to be operated under contract with Rykur Holdings Inc. for a guaranteed period of twenty to twenty five years, after which the units could be available as market units.

The market units will consist of one and two bedroom condominium apartment units, and the affordable units will be primarily one bedroom rental apartments. The market units will be located on floors three to five, with the affordable units on the first and second floors.

The primary pedestrian entrance to the building is to be located on the Dublin Street frontage, with a secondary access/exit on Cork Street. Balconies will be provided on the west and east faces of the building and the north face of the apartment building (the latter occurring as a result of the amended plans).

All vehicular access will occur from the Cork Street frontage leading to the underground parking garage.

A total of 37 parking spaces will be provided. The parking will be provided in a mechanical parking stacker, and in standard underground parking spaces. No surface parking is proposed to be provided on the site. The parking supply will allow for one (1) space per market unit, and 0.85 spaces per affordable unit. Two (2) visitor parking spaces will be provided in the underground parking garage near the entry to the parking garage on Cork Street.

The parking provided by the applicant in the revised application is consistent with recent parking standards for condominium buildings in the Downtown area of the City.

#### Development Approvals Required

The development proposal requires an amendment to the City of Guelph Official Plan to allow for a 5-storey building, whereas city policy in the Downtown Secondary Plan would limit the height of the building to two to four storeys. The height limits in the Official Plan are intended to protect for views of the cultural heritage landscape features of Catholic Hill, and specifically the Basilica of Our Lady, which is a federally designated heritage site.

The proposed use of the property is otherwise consistent with the City's Official Plan.

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The development proposal also seeks to amend the City of Guelph Zoning Bylaw to allow for the residential use of the property, an increase in the height allowance for the building, and to provide for site specific regulations, which would be expected to be tailored to the building placement on the site, including allowable gross floor area as well as parking. A notable change to the bylaw includes a reduction in the east portion of the property, which is technically a rear yard of the property according to the City's zoning bylaw. The development proposal seeks a reduction in the required rear yard from 10 metres to 3 metres. It should be noted that the current allowance permits a 4-storey building and the rear yard requirement applies only to a non-residential building on an as-of-right basis.

An application for site plan approval and a draft plan of condominium would also be required and have not been submitted to the City at this time.

The property was formerly developed with tennis courts and there is little in the way of trees or significant vegetation. The property is located in an area with considerable change in grade, necessitating the use of retaining wall on the east side of the property adjacent to a commercial property and along the northern property line shared with Central Public School. The elevation change along the subject site has been estimated to be 4.5 to 5m in height (from the base of the school building to the top of the property formerly occupied by the tennis courts). This elevation difference is the equivalent of one and half to two storeys in height of a typical residential apartment development.

#### Issues

In our review of the proposed amendment, we have identified the following matters which may be of concern or issue:

##### **Official Plan Conformity**

As indicated above the proposed development requires an amendment to the Official Plan in respect to height of the building. This policy was developed largely in response to the federally designated heritage site of the church property to the west and its prominence on the skyline of the downtown. This policy was also developed for the entire downtown area and requires consideration of adjacent buildings (likely due to the extent of existing development within the Downtown and the expectation for infill type development). In the context of the proposed development for the property and its relationship to the school site the change in elevation between the property and the adjacent school building would require careful consideration to the impact of the proposed massing and placement on the school building and the areas around the school itself.

From our review of the proposed development, there is an issue with Official Plan policy which speaks to general building heights of two to four storeys. The elevation change alone account for a one and half storey differential in height, which would effectively establish the height of the proposed building as an equivalent of approximately 7-storeys in height (excluding the mechanical penthouse) to the facing condition with the Central Public School.

The proposed development also requires substantial reduction in the rear yard allowance from 10m to 3m. This reduction also introduces a substantial increase in the building massing which in turns affects the shadow cast onto the school site, particularly the Peace Garden which will be in shade much of the day as a result of the proposed building.

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As the development requires an Official Plan Amendment, the onus should be on the proponent to provide an analysis of the additional height sought to allow an evaluation on the basis of the overall impact on the subject site.

#### **Impact of Height on the School Site**

Particularly to the FDK play area on the Dublin Street North frontage, to the Peace Garden along the south limit of the school site, and the hard surface play areas along to the east of the school building, the height and massing of the proposed residential building will create:

#### Loss of sunlight to the play areas in the typical operating months of operation of the school

In regards to the shadow impact of the proposed development, as there are no City of Guelph terms of reference or policies available to determine whether the potential shadows created by the proposed building will be provided at an acceptable level on the subject site, we have taken a practical approach in our review of the shadow studies prepared by the applicant. Typically, loss of sunlight is addressed in the context of the March, September and June time periods (taking into account Daylight Saving Time) and, occasionally, winter conditions are considered for public spaces.

In the context of the development application for the property, the applicant has provided sun shadow studies to demonstrate the impact of the proposed building to the subject site. At this time, we can advise that the shadow of the proposed building in the morning and early afternoon hours extend over the FDK play area, the Peace Garden, and into the southern extent of the easterly play area of the school (created by the proposed increased building height and width), beyond the shadow created by a building built as-of-right under the current zoning by-law. This condition is most pronounced in the winter months rendering those areas without sunlight for the bulk of the school day.

As outlined in our memorandum dated October 17, 2016, a number of concerns pertaining to the shadow studies were identified and recommendations were provided to assist in our review of the proposed residential development.

#### Loss of sunlight to the roof mounted solar panels

The solar panels will be subject to shadow such that there could be a loss of power generation capacity in the morning hours and this would have a financial impact to the school board. This is a matter which could be eliminated by a reduction in the building height or the relocation of the panels to the north. If the latter option is pursued this should be accomplished by a binding agreement prior to any amendment to the zoning bylaw.

#### Overlook to school's play areas from proposed main residential rooms windows, balconies and terrace

The orientation of the proposed main residential window, balconies and terraces could create an overlook condition to the kindergarten play area at the front of the school building, to the Peace Garden, and the rear yard school playground to the north. This is a matter of balancing the benefit of "eyes" on the publicly accessible area of the Peace Garden and the potential disbenefit or loss of privacy and overlook into these areas of the school site. The revised plans now present terraces on the northern facing levels

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of the proposed building at the fourth and fifth floors. The terrace condition is now proposed to result in a 3m deep condition and this will be usable area for future residents. To mitigate concerns with direct overlook, features such as opaque/frosted panels, and/or planters/balcony guards can be required to prevent people on the terrace from being immediately at the edge of the terrace creating a condition of a longer view vs an immediate overlook to the Peace Garden and play areas.

#### **Impact of Building Massing to Heritage Property Considerations**

Given the importance of the heritage considerations to Church Hill, we note that the heritage impact study for the proposal was not submitted to the City or made available to the School Board until October 21, 2016. With the modifications to the proposal submitted on October 24<sup>th</sup>, this report will need to be updated and reviewed by the City. We have not provided any commentary on this report and have had insufficient time to do so but would anticipate this to be a significant document in the assessment of the overall proposal by the City.

#### **Impact of Location of Main Entrance to the Building**

The transportation report filed on October 14, 2016 for the subject site states:

*"There is existing on-street parking spaces along the Dublin Street North frontage of the subject property. These parking spaces function as a Kiss N' Ride zone for the Central Public School with a time limit of 5 minutes between 08:00 and 16:30 from Monday to Friday. Outside these hours, on-street parking is permitted at all times. These spaces and the other on-street parking areas along the adjacent roadways will serve as visitor parking for the subject site. Visitor parking is used predominately in the evenings and on weekends and is not expected to conflict with typical school operating hours."*

In our view, the location of the main entrance to the proposed apartment building on Dublin Street North will create a potential conflict with the day-to-day operations of the school which has the exclusive use of the existing lay by on the street.

The proposed building makes no provision for a lay by on either Dublin Street North or Cork Street West for pick-up and drop-off of residents by others, including cabs and handicapped accessible vehicles, and general deliveries. This conflict would be unavoidable given the extent of the hours the lay by would be used by the school and the normal day-to-day needs of residents of the apartment building particularly a building oriented to seniors. The location of the underground visitor parking spaces is not likely to be convenient for most deliveries or pick-up of residents, and is not designed to accommodate larger handicapped accessible type vehicles which may be needed by residents.

#### **Parking**

Given the proposed increase in the parking supply, this should not be a matter of issue. As discussed above, the more significant issue is the location of the parking and the lack of a proper pick up and drop off for the proposed building in order to avoid the conflicts anticipated in the lay by area on Dublin Street North as programmed and limited to allow continued and effective use by the Central Public School.

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### **Inadequate Setbacks**

The proposed setbacks of 3 metres from the front , northerly and rear side yard setbacks are inadequate and create an incompatible relationship with the adjacent school.

Some guidance as to more appropriate minimum building setback distances for this development can be obtained by looking at the setbacks for development currently permitted for development on this site under the existing Institutional zoning.

Under the existing I.1 zoning a minimum front yard and side yard setback of 6 metres are required. The front yard and side yard standard from the I.1 zoning if applied to the proposed development would reduce the overlook and loss of indirect light to the Kindergarten Play area at the southwest corner of the School and the Peace Garden.

The I.1 zoning requires a minimum rear yard setback of 7.5 metres and the proposed D.2 zoning under the Downtown Zoning Bylaw proposes to require 10 metres. Given the impact of the reduced setback proposed on shadow on the asphalt playground during the morning months in the winter maintenance of the 10 metre rear yard setback from the Downtown Zoning Bylaw would be more appropriate.

### **Conclusion**

In our view, the proposed development should be required to address matters of fencing, landscape and lighting along the common property limit with the subject site. These details are typically advanced at a site plan approval stage and the Board technically would not have a right to review or materially affect those matters.

In our view, the application should be amended as follows to address the identified impacts to the school property:

- Relocate the main entrance to the building from Dublin Street North to Cork Street West or to the southwest corner of the building to be secured by the new zoning bylaw
  - Increase the front yard and north side yard setbacks to 6 metres and incorporate a landscape plan to improve and enlarge the area of the Peace Garden (by design and not ownership)
  - Increase the rear yard setback to 10 metres
  - Limit the height of the development to 2-4 stories and express it in an actual measured height above grade
  - Prohibit any protrusions above the height limit unless expressly permitted including prohibition of any telecommunications/wireless antennae
  - Provide further setbacks at the upper levels on the east, west and north sides of the building to mitigate sun shadow loss and reduce the impact of the buildings massing on adjacent school activity areas and playgrounds
  - Define the location , height and size of any proposed mechanical penthouse in the zoning bylaw
  - Develop a building envelope in the zoning bylaw reflecting these performance standards
  - Consider an approach to resolve loss of sunlight to the roof top panels on the school building
-

Should an amendment to the zoning bylaw be approved for the proposed development of the property, we would recommend specific regulations to limit the location, size and number of balconies, or terraces; and stepbacks and setbacks should be prescribed to ensure building placement and the light conditions demonstrated to be acceptable to the school board.

Given the unique characteristics and conditions of the school property, we would recommend the City amend the Downtown Zoning Bylaw as it affects this property to incorporate the recommendations contained in this letter to guide future development applications.

I trust this is satisfactory to your needs at this time. Should you have any questions or wish to discuss this please contact me.

Yours truly,

**WND associates**  
planning + urban design

A handwritten signature in black ink, appearing to read 'Robert A. Dragicevic', with a large, sweeping initial 'R'.

Robert A. Dragicevic, MCIP, RPP  
Senior Principal

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