The Corporation of the Town of LaSalle
Regular Meeting of Council
Addendum

Tuesday, April 13, 2021, 6:00 p.m.

Council Chambers, LaSalle Civic Centre, 5950 Malden Road

Clerk's Note: Members of Council will be participating electronically and will be counted towards quorum. The Minutes will reflect this accordingly. The Electronic Meeting can be viewed at www.youtube.com/c/TownofLaSalleOntario
Accessible formats or communication supports are available upon request. Contact the Clerk's Office, abala@lasalle.ca, 519-969-7770 extension 1234.

Pages

D. Delegations

1. Site Plan Control and Holding Zone Removal Applications, Creekside Condominiums (Valente), Ellis Street

*a. Delegates *2*

1. Stephen Shanfield, Attending Via Zoom and Provided Written Submission.
2. Tarek Elfiki, Attending Via Zoom.
3. Jin Qian, Attending Via Zoom.
4. Akbar Berry, Attending Via Zoom.
5. Michael Hindi, Attending Via Zoom.

Clerk's Note: Participation will be held electronically due to COVID-19 pandemic. Delegations have been notified of the virtual Council Meeting process.

Below is the list of delegates appearing before Council regarding the Site Plan Control and Holding Zone Removal Applications, Creekside Condominiums (Valente) Ellis Street Report (DS-07-2021).

1. Stephen Shanfield, Attending Via Zoom and Provided Written Submission.
2. Tarek Elfiki, Attending Via Zoom.
3. Jin Qian, Attending Via Zoom.
4. Akbar Berry, Attending Via Zoom.
5. Michael Hindi, Attending Via Zoom.

Corporation of the Town of LaSalle

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Delegation Request Form

Please complete this form to speak at a meeting of Town Council or Committee. Delegations are limited to five minutes.

This form and/or any written submissions **must be received by 11:59 p.m. the Friday** before a scheduled Council/Committee Meeting. Anything provided beyond this deadline will not be submitted for Council's consideration or form part of the agenda.

Please email to abala@lasalle.ca, fax to (519) 969-4469, drop off or mail to the Department of Council Services, Town of LaSalle, 5950 Malden Road, LaSalle, Ontario N9H 1S4.

Name: STEPHEN SHANFIELD

Organization/Group/Business represented: _____

[redacted]

Date of Meeting: APRIL 13, 2021

Is this an item on the Agenda? Yes ✓ No ___

Agenda item Number or Topic (if applicable): E1 - CREEKSIDE CONDO.

I wish to address Council/Committee: Yes ✓ No ___

Describe in detail the reason for the delegation and what action you will be asking Council/Committee to take (attach separate sheet if necessary):

SPEAKING TO PETITION OF RESIDENTS OF SERENITY CIRCLE REQUESTING CHANGES IN SITE PLAN.

Please note that your name may become part of a public record in an electronic and paper format i.e. council agenda, to enable Council to make its decision on the matter.

✓ I Agree ___ I Disagree

SERENITY CIRCLE COMMUNITY SUBMISSIONS

Mr. Mayor, distinguished members of Council,

These submission are made with the unanimous message of the residents of all 21 homes on Serenity Circle, regarding the Valente Creekside development.

I appreciate that we had the opportunity to speak at the meeting where the zoning change for the development came before Council, however, administration made it clear that the agenda was confined to the zoning change alone, and not the site plan. There was not, at that time, an opportunity to engage with you, with respect to specific concerns regarding the particulars of the plan itself.

Now that the project has reached the site plan stage, we residents have, as a microcosmic community, had the opportunity to exchange views and interests regarding a development that intimately impacts our safety, the safety of our children, and the quality of life that we have enjoyed and expect to enjoy in the future. As a consequence, we feel that it is our obligation and duty to one another, and to future homeowners on our street, to make our concerns known to Council.

In your remarks, Mr. Mayor, during discussion of our request to council to address community mailboxes on March 4th, you said the following:

“I’m pro-development. I’m pushing development. You can ask anybody in administration. You can talk to developers. I’m always pushing development. But I’m also pushing them to do the right thing…”

Well, here is your opportunity, sir, to back up your words with deeds. The residents of this street are asking for you to stand back and look at this proposal with not only developer’s wishes in mind, but to consider our concerns. WE were here first. It was our decision to contribute to the development of this Town long before this Creekside proposal was even a glint in the developer’s eyes.

You told us at that meeting: “**What’s bothersome to me is now this is the third group of residents that have come to Council because developers, builders, homeowners in some cases aren’t doing what they are suppose to do. Then they come to us to fix their problems and I don’t think that’s what we are here for.”**

We are here, Mr. Mayor, to fix the problems before they occur. You don’t want to deal with problems that could be fixed before they arise, and neither do we. That is why we are here tonight. You and members of Council are making a decision that has huge and permanent implications for the safety, well-being and convenience of not just the developer, but the greater community. These are not plans that can ever be changed once the shovel goes in the ground. We implore you to think long and hard about the issues we are raising.

As our petition recites, our concerns lie in three main areas.

CHILDREN

1.The safety of the children who live in our homes and attend, or will attend, a school whose schoolyard is a stone's throw from this development, is paramount. We believe that the traffic to be generated from this development, when combined with the traffic from other members of the travelling public, school busses, Transit Windsor busses, mail delivery trucks, and existing condominium residents on Ellis Street, will create conditions which, based upon the site plan proposed by the developer, are dangerous and ill-advised.

Presently, there are 15 children who live on Serenity Circle and walk to Sandwich West Public School. In addition, there are 4 children who board school busses on Ellis Street, daily.

Currently, the only sidewalk leading to the Public School is on the West side of Ellis/Trinity Streets (immediately beside the proposed development). In response to concerns raised at the Planning Advisory Board meeting, the developer has offered to build a sidewalk on the east side of Ellis/Trinity Streets to terminate at the South/West entrance to the schoolyard. At that terminus, there is a brief section of sidewalk leading from Trinity into the schoolyard. After that, it is bare ground which is subject to flooding in inclement weather. If, during the school day, the children are not allowed to go into the schoolyard when it is raining and muddy, why should they have to traverse it to get to the school. Administration says the sidewalk from Serenity Circle will continue north, along Trinity, beyond the proposed terminus point, until it reaches the existing sidewalk on Wyoming Street, where the children can then reach the school on paved ground. This is contingent upon another development beside the Home Hardware which may or may not ever come to fruition. The Creekside developer should be responsible for this sidewalk now.

*The developer has said that he plans to route all construction traffic North on Trinity from the development site. There will accordingly be heavy equipment, dump trucks, pickup trucks of construction workers, cement trucks, cranes, and assorted service vehicles crossing the sidewalk day in and day out, on a route used by schoolchildren to walk to Sandwich West Public School and other pedestrians who use the sidewalk for a stroll or to attend shopping centres on Malden Road and surrounding area. In addition, the only sidewalk they can use will be muddy and slippery on rainy days. It is imperative that it be made a condition, that, **before any construction begins**, the sidewalk/trail leading to the school and shopping areas from Serenity Circle, on the East side of Ellis/Trinity Streets be built and completed.*

RESPONSE TO ADMINISTRATION RECOMMENDATION

The administration's report aptly describes administration's consideration of safety issues.

"This trail will be constructed contemptuously (sic) and as part of the construction servicing and will be part of any of the first phase developments."

It is clear that administration has no intention of constructing the “trail” on the East side of Ellis before the construction begins. This was made clear to me in a telephone conversation with Mr. Marra on March 31, 2021. This is a travesty and a slap in the face to every child and other resident approaching the construction area from the South. YOU MUST MAKE IT A CONDITION THAT THIS BE COMPLETED BEFORE ANY WORK IS DONE ON THIS PROJECT!

ACCESS TO COMPLETED DEVELOPMENT

2. As a further safety concern which traffic from this development will generate, the residents propose that the entrances/exits to and from this development **NOT** be located where the proposed site plan locates them - that is, on the S-curve on Trinity Street. This is clearly dangerous to traffic traversing Ellis and Trinity Streets. Site lines are obscured for traffic travelling north on Ellis, rounding the corner onto Trinity, in such a way as to be upon the proposed Easterly exit from the development in a second or two. The other entrance/exit at the most Westerly corner of the S-curve will create a danger to both northbound and southbound traffic on Trinity where the site lines are equally obscured. The developer suggests that out-bound traffic from the development will be expected to obey traffic laws. If that were the solution, we would not require a police department or ambulance service.

The residents have proposed an alternate solution which makes eminent sense, and would not cost the municipality any money - that is, to require the developer to construct roadways from the development, southerly, to Normandy Street, at the far ends of the Police station and Public Works. They could be elegant, tree-lined laneways which would eliminate the danger of vehicular traffic entering and exiting on the S-curve. Currently, large condominium developments on the north side of Normandy use this roadway to enter and exit their developments without issues. The site-lines are clear and traffic is orderly. No issue has been raised which would militate against this plan other than it might impact the few parking spots for the police station. In answer, firstly, experience has shown that there are hardly any vehicles in that parking lot ever, and secondly, the few spaces could be easily relocated.

RESPONSE TO ADMINISTRATION RECOMMENDATION

Administration states that this ***“would require the Town to give up an approximately 20m wide swath of land through either the fire department yard, the police department yard or through the Cenotaph park.”***

This is a misrepresentation of what we have proposed.

The fire department yard is nowhere near the areas we have proposed. Nor would there be a wide swath of land through the Cenotaph park. The language used by administration is inflammatory and clearly designed to depict a reasonable proposal as being destructive and unworkable to the Town. It is not.

If you look at the drawing we submitted at the Planning Advisory stage, the roadway we proposed on the East side of the Town Property would not be through Fire Department yard, or even the Public Works yard. It would be East of the Public Works yard where the current berm exists between the condominium building on Ellis Street and the Public Works yard. The fire department yard is nowhere near the areas we have proposed. Nor would there be a swath of land through the Cenotaph park.

The roadway we proposed on the West side of the Town Property would be West of the Police department building, and basically be an extension of the driveway West of that building and East of the Cenotaph park.

The current plan for this development took the fastest and cheapest route out onto a public street on a dangerous curve. We say that fast and cheap (and dangerous) is not what this Council should ever consider approving.

Administration states that this ***"This would also create another new intersection on Normandy that would not align with any other existing intersections on Normandy, thus creating offset intersections."***

Where these laneways we have proposed meet Normandy, they are not 'intersections'. They are driveways, not unlike the exits from Condominia on the South side of Normandy onto that street. You will notice the entrances and exits the developer proposes dumping onto Ellis Street have not been referred to as 'intersections'. They are driveways. There is no difference in their nature, other than a matter of semantics to support administration's argument. And, further, it would be a lot more dangerous to have those ingresses/egresses at the location proposed by the developer and rubber stamped by administration. Do not allow yourselves to be a rubber stamp for poor and dangerous planning.

Administration states that ***"This would in essence make this a single point access site, and would introduce a number of serious safety, operational and security problems for the Town's new Civic Centre Complex."***

This is a bald statement with no explanation or logic. The laneways would in no way be near current operational driveways, they would be controlled by stop signs. In addition, the town operations are currently fenced.

Council, on March 9th, 2021 refused to consider mitigation of the traffic considerations raised by residents regarding the community mailbox on Ellis Street. There was some discussion during its consideration of constructing a lay-by to facilitate retrieval of mail. At that time the proposition was raised of finding a way to charge residents for its construction, if it was to be completed. This developer will be making millions of dollars on this development and Council could require him to pay for the cost of these roadways as a condition of proceeding. Why should this developer receive better consideration for this development than was suggested for current residents?

PRIVACY

3. The developer has chosen to plan a four-story building with views overlooking the backyards of several of the houses on the North side of Serenity Circle. The house on the north-west corner of Ellis and Serenity has a swimming pool and cabana clearly visible from the proposed four-story building.

The developer raises the following in mitigation: Firstly, he says, the building is no closer to Ellis Street than the adjacent, existing condominium to the South. The distinction is, that building was constructed long before Serenity Circle was a glint in the eye of John Evola, its developer. There was no reason, when that building was built, to consider the neighbours of Serenity Circle, because there was no Serenity Circle. There is a reason to consider that now. Secondly he says, he will plant a tree outside the resident's fence, to try to block the view. This is no solution. No tree will be tall enough or mature enough for years and years to even start to block the view from a four-story building. The owners will be 'enjoying' their backyard to the gaze of multiple condominium occupants.

The residents of Serenity propose relocating that building to an area that does not overlook anyone else's property or in the undesirable alternative, restricting the height of that building to two stories. There are low garages planned by the developer on other areas of the property which could be swapped with the building in question.

RESPONSE TO ADMINISTRATION RECOMMENDATION

The sum and substance of administration's response to our concerns is ***"The location and height of the proposed new buildings is appropriate, and in keeping with the zoning bylaw regulations that are now in effect for this site."***

We can be even more concise than that. "No, it isn't appropriate".

It's time to go back to the drawing board and make this development make sense.

Thank you for your consideration of this matter.

All of which is respectfully submitted

Residents of Serenity Circle, LaSalle.

DUE DILIGENCE?

If neighbourhood pleas are unconvincing, perhaps you will consider the law. There are numerous cases which hold municipalities liable for improper road design.

Has the Town sought a legal opinion (and not just a Town Solicitor's) on the configuration of the entrance and exits onto the public street for this subdivision? Has the Chief of Police been asked for his opinion? Has an accident reconstruction expert who does detailed studies of reaction times and distances from obstructions and road mis-design weighed in?

I practiced personal injury law for 38 years prior to my retirement. If I were to be consulted in relation to an injury accident occurring at a location such as the developer is proposing and your administration is supporting, the first defendant named in a lawsuit would be the Town of LaSalle. In the time it takes for the operator of a vehicle exiting this project to look to the right, then look to the left, for traffic on Ellis/Trinity, and pull out, a vehicle rounding the turn from Ellis would be upon him/her. The developer's studies confirm the heavy traffic this road currently has (3500 vehicles daily), even without the existence of the development, and administration is aware of the daily traffic it can carry (10-12,000 vehicles daily). Even if the driver exiting the development is negligent, so can the municipality be, by virtue of the road design/exit lanes.

The following is but a brief excerpt of the law to give you pause for thought here. You would be wise, before giving your stamp of approval to this design to seek an appropriate legal opinion which would instruct the Town on it's potential liability arising out of this design flaw:

The municipality's statutory duty is similar to that of other road authorities and is found in section 44 of the Municipal Act: to "keep a roadway in a reasonable state of repair so that the users of the roadway, exercising ordinary care, may travel upon it safely."

Whether or not a road is in a reasonable state of repair is not limited to its surface. Caselaw, over and over again, have found that lack of signage, inadequate road markings, narrow roads, steep hills, dangerous

intersections, **road curvature, poor sightlines** or other hazards that ought to have been foreseen as potentially taking a motorist by surprise may constitute an unreasonable state of repair.

A statement approving a Supreme Court of Canada decision in a recent case in the Ontario Court of Appeal, the highest Court of our Province, makes municipal liability clear, even where a driver may be negligent.

COURT OF APPEAL FOR ONTARIO

CITATION: Smith v. Safranyos, 2018 ONCA 760
DATE: 20180919
DOCKET: C63133 and C63175

"A non-repair action can succeed even where a negligent driver was the immediate cause of the accident. The courts in both Deering and Housen v. Nikolaisen, 2002 SCC 33, [2002] 2 S.C.R. 235, found municipalities to be liable to negligent drivers for non-repair. As long as road conditions that would imperil ordinary drivers constitute a "but for" cause of the accident, a liability finding against a municipality may be appropriate."

Your administration, in its rush to approve a project that will result in tax dollars flowing into the coffers of the municipality, has likely forgone its duty of due diligence and the result will inevitably cost the municipality in huge insurance deductibles and higher premiums in the future as a result of allowing entrance and exit roads on a short S-curve.

I would admonish you to consider these entrance/exit laneways very carefully before making a costly mistake that cannot be undone once this development is built. I would submit to you that an appropriate design would be to have traffic entering and exiting onto a straight roadway with long sightlines such as Normandy Road, where traffic to and from this development could proceed in safety and with no liability being attracted by the Town.

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Name: TAREK ELGIKI

Organization/Group/Business represented: [redacted]

Date of Meeting: 13 April /2021

Is this an item on the Agenda? Yes ✓ No ___

Agenda item Number or Topic (if applicable): Creek Side development

I wish to address Council/Committee: Yes ✓ No ___

Describe in detail the reason for the delegation and what action you will be asking Council/Committee to take (attach separate sheet if necessary):

I would like to voice oppusition to Building plans, avoid Enterence from Ellis.

Please note that your name may become part of a public record in an electronic and paper format i.e. council agenda, to enable Council to make its decision on the matter.

✓ I Agree ___ I Disagree

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Name: JIN QIAN

Organization/Group/Business represented: [redacted]

Date of Meeting: 4/13/2021

Is this an item on the Agenda? Yes ✓ No ___

Agenda item Number or Topic (if applicable): _____

I wish to address Council/Committee: Yes ___ No ___

Describe in detail the reason for the delegation and what action you will be asking Council/Committee to take (attach separate sheet if necessary):

This is for report # DS-07-2021, Creekside/Valente, Ellis street project. Petition item #1. I ask Council/Committee to ensure a proper sidewalk on the east side of Ellis and Trinity Streets from Serenity Circle to Wyoming Avenue must be completed befor any site prep. or construction

Please note that your name may become part of a public record in an electronic and paper format i.e. council agenda, to enable Council to make its decision on the matter.

✓ I Agree ___ I Disagree

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Name: Akbar Berry

[redacted]

Date of Meeting: April 13, 2021

Is this an item on the Agenda? Yes ✓ No ___

Agenda item Number or Topic (if applicable): E1 – CREEKSIDE CONDO

I wish to address Council/Committee: Yes ✓ No ___

Describe in detail the reason for the delegation and what action you will be asking Council/Committee to take (attach separate sheet if necessary):

I would lik to discuss our kids safety Concerns as well as potential traffic increase on Ellis Street and its consequences to the neighborhood residents. I would like to request changes onto the Creekside development plan so the neighborhood residents concerns resolved at the development stage what was mentioned in the previous meeting as our respected mayor is in favor of resolving concerns in the development stages.

Please note that your name may become part of a public record in an electronic and paper format i.e. council agenda, to enable Council to make its decision on the matter.

✓ I Agree ___ I Disagree

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Name: Michael Hindi

Organization/Group/Business represented: _____

[redacted]

Date of Meeting: _____

Is this an item on the Agenda? Yes ✔ No ___

Agenda item Number or Topic (if applicable): Creekside development

I wish to address Council/Committee: Yes yes No ___

Describe in detail the reason for the delegation and what action you will be asking Council/Committee to take (attach separate sheet if necessary):

-privacy:ie balconies-positioning them away from homes, and no balconies on Ellis from building A; moving building A to where the "park/pavillion" and garage will be located
-safety with traffic on the corner with ongoing traffic
-site plan with building location and parking lot
-this week 2 times the corner curb was jumped and sign was broken
-how far away is the building A from the road exactly..6.9meters but that is very close compared to the building next door?
-when will building A begin and how long will it take to finish that portion?
-we want large mature trees planted to block windows and viewing

Please note that your name may become part of a public record in an electronic and paper format i.e. council agenda, to enable Council to make its decision on the matter.

✔ I Agree ___ I Disagree