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City Council - The City of Calgary
3rd Floor, Calgary Municipal Building
800 Macleod Trail S.E.
P.O. Box 2100, Postal Station "M, IMC # 8108

Dear Sir or Madam:

Re: Request for Comments/MISSION ROAD #65D 2014 at 34th Ave. S.W.

This is Déjà vu –all over again!

Several years ago, comments were requested by the City of Calgary concerning adoption of by-laws for redevelopment of Mission Road. These proposed by-laws were the product of a prolonged and expensive “charette” public participation process facilitated by Councilor Carra --ostensibly with the purpose and **promise** of **comprehensive redevelopment of Mission Road**.

The “charette” process appears now as a “charade”, and a promise unfulfilled: What began as a land use process for redevelopment of Mission Road has evolved into an elaborate approval process for *only a portion* of Mission Road by a single developer who appears to have the support of Councilor Carra -- notwithstanding that the things agreed to by residents in the charette process are **not** reflected in the proposal brought forward by this developer. Background is essential to understanding the current state of affairs:

At the initial land use public hearings, two practically incomprehensible by-laws were debated simultaneously by City Council in a complex hearing that was virtually impossible for citizens to meaningfully participate within. Even the Aldermen appeared baffled by which by-law was under debate.

Despite this challenge, at the core of the original debate was the **promise** that the process would result in **comprehensive redevelopment of Mission Road** --an objective that remains the goal for local residents! Indeed, during the initial public hearing, the owners of properties governed by the proposed by-law(s) sought approval based on **comprehensive redevelopment of Mission Road**. The question now is whether **comprehensive redevelopment** was ever the goal of developers in the first place –or simply a means to achieve maximum relaxations (and maximum profit) on every lot.

The initial by-laws were written in a vague or flexible manner in contemplation of **comprehensive redevelopment**; namely, in the absence of specific plans from developers, the by-law was drafted in the abstract to allow high-density in areas where towers, for example, might be located, and low density in other areas to ameliorate undue massing; for access and egress to meet the needs of the entire redevelopment area (to avoid the multiplicity of issues arising from un-coordinated development of individual lots), and for other relaxations to allow the entire area to be redeveloped with mixed use and maximum density but with minimal adverse impact on the existing neighbourhood. All of this assumed cooperation or coordination among numerous owners of the lots to be developed.

The overall approach to the former (existing) bylaw makes sense: Some degree of flexibility should be encouraged to allow future development on Mission Road. The danger implicit in ambiguous wording, however, is that each individual lot owner within the area to be redeveloped might take advantage of these ambiguities to make separate (individual) applications for maximum relaxation, high density and unusual access/egress requirements for a single property, instead of considering the development areas as a whole. That is the challenge: The 'flexibility' to encourage redevelopment of the area should apply to the area as a whole to allow for **comprehensive redevelopment**, and not to each lot within the development. Otherwise, the entire resulting redevelopment area will reflect unintended consequences; namely, cheap construction, excess density, unsafe access/egress, unnecessary massing, overlooking and overshadowing, as well as other adverse impact on the neighbouring communities.

Opposition to anything contained in the original by-law was overlooked by residents in exchange for the promise of **comprehensive redevelopment of Mission Road**. Implicit in presentations made to City Council in favour of the original by-law was the promise that the various different owners of the lands within the area would work out their respective profit concerns to allow for **comprehensive redevelopment**. The by-law –drafted such as it was-- was subsequently passed by City Council.

Throughout, the idea of **comprehensive redevelopment** was essentially agreed upon with the proviso that particulars could be worked out in the development application process. That was the impression given to residents following enactment of the by-law. Why oppose such an approach? The challenge is to ensure that the promise of **comprehensive redevelopment** will be kept.

The point is this: if we are to learn from our past experience concerning redevelopment of Mission Road, it is necessary for a new land use by-law to be adopted that allows **only** for **comprehensive redevelopment** of the site and which restricts ad-hoc, lot-by-lot, approval unless such individual approvals reflect integration with development of neighbouring properties in accordance with a comprehensive plan.

A by-law must therefore be adopted which encourages (or requires) **comprehensive redevelopment** and **cooperation of all landowners** within the area to be developed. Otherwise, a by-law might be interpreted as allowing massive density, massive size, impractical access/egress and overshadowing of adjacent properties **everywhere** in the development area instead of only in permitted areas (if at all) to ensure minimal adverse impact on the existing amenities of adjacent landowners.

Implicit in this thinking is that relaxations and grants of density, massing, etc. cannot reasonably be allowed to **all owners of all properties** along Mission Road in the area to be redeveloped: The result would be unthinkable! Still, some flexibility may be necessary to allow for **reasonable redevelopment**.

Looking back to the initial hearings, based on the promises for **comprehensive redevelopment** implicit in the undertakings of the local Councilor, property owners, and developers, residents withheld their opposition to the initial by-law. Residents were reluctant to oppose the initial by-law **only** because it promised **comprehensive redevelopment** of that part of Mission Road that had become derelict and an eyesore to the community and to the City.

Residents generally agree: Redevelopment of Mission Road is essential --but not 'development merely for the sake of development alone'! No development at all is better than a bad development!

Following adoption of the initial by-law, residents hoped that the obstacles to redevelopment had been overcome --that the derelict properties on Mission Road would finally be redeveloped in a **comprehensive** manner to allow increased density while mitigating traffic, parking, massing, and over-shadowing.

But that hope proved to be a mirage: A façade.

Following enactment of the original by-law no proposal was forthcoming for the **comprehensive redevelopment of Mission Road**. Instead, a proposal was made by a single developer on behalf of multiple investors for a high density, low quality apartment complex at the most westerly part of Mission Road representing only approximately 30% of the total redevelopment area. This development proposal has now become the focus in this current land use planning debate; namely, whether to allow this so-called "Mission 34" development to proceed by transforming the original "DC" by-law that makes no sense **except** in the context of **comprehensive redevelopment of Mission Road** to a new "DC" by-law that presumably would allow the existing project to proceed "as-is" on an *ad hoc* basis --the very thing that the initial by-law tried to avoid!

What is being proposed now is to change the by-law to allow for the very thing that adjacent residents have opposed and which the Calgary Subdivision & Development Appeal Board has ruled inappropriate in deeming the Mission 34 project “null and void” in a recent ruling! Instead of proposing what might be acceptable within current zoning and taking into account the concerns raised by the SDAB, the developer has chosen a different tack; namely, to attempt to make legal what was once illegal. As a result this land use hearing process has become the *de facto* approval (or rejection) process for the “Mission 34” project. An examination of the project is therefore unavoidable –albeit technically irrelevant to the normal land use debate:

The “Mission 34” redevelopment proposal is for the “prime” part of Mission Road at the junction of 34th Avenue and requires relaxations and allowances that result in a bottleneck of traffic at that intersection. If granted, it will impair access and egress along the entire length of Mission Road, and adversely affect neighbouring communities. Instead of proposing a high-end project consistent with other inner-city developers in other prime locations, this developer proposes a project that is too dense, too massive, too high along the alleyway, and which ignores the amenities of neighbours. It is an attempt to cram in as many units as possible.

Had the Mission 34 project been approved it would have impaired or prevented further redevelopment of the remainder of Mission Road. Why? Because if future developments were to occur at the same density and allow the same flexibility of access/egress as the subject property, traffic on Mission Road would virtually come to a halt; the resulting traffic would pose a danger; parking would be impossible; and a virtual ‘wall’ would overlook existing properties and separate the proposed project from the existing community.

That is NOT good planning policy. It does NOT make for good neighbourhoods. And it is not likely that such other such projects would endure the appeal process –unless, of course, the bylaw was changed as the developer is requesting!

Notwithstanding these concerns –and essentially ignoring the context in which the original by-law was drafted--, the ‘Development Authority’ (the City Planning Department) initially approved the proposal and allowed numerous relaxations. Personally, I am at a loss why the Development Authority would depart from the principles which were implicitly adopted throughout the planning exercise.

The planning process allows residents to appeal development approvals such as this. And that is what residents did. What followed was a complex and lengthy hearing before the City of Calgary Subdivision and Development Appeal Board. In part, the purpose of making such an appeal was to ensure that the promise of ***comprehensive redevelopment*** would be achieved. But it was not easy.

Hearings before the SDAB are quasi-judicial in nature and are not intended to reflect the adversarial process common in judicial settings. The purpose is to achieve rational, fact-based planning decisions in a fair and unbiased hearing. That is NOT what occurred in these proceedings.

In the course of the SDAB hearings on this file the Development Authority adopted a confrontational and adversarial role with respect to local residents: It was not enough for the Development Authority to explain the relative merits of the positions of both the developer and affected residents and allow the board to decide. Instead, the Development Authority took the position that affected residents were essentially liars (in particular in respect to traffic and ice conditions on 34th Avenue which cause frequent accidents) or that we were unreasonably opposed to any kind of redevelopment! That is simply untrue. The zeal in which the D.A. opposed legitimate views of affected residents and ratepayers is remarkable –but apparently commonplace.

Councilor Carra also appears to support the project. His letter of support addressed to the developer made its way in evidence before the SDAB. The letter appears to have been tendered in evidence on behalf of the developer to influence the SDAB. If so, it is, in my view, an improper interference in the conduct of a quasi-judicial hearing. Against this backdrop, the developer presented its case to the SDAB aided by a phalange of professional advisors. Local residents who opposed the project expressed their opposition, albeit without the aid of professional advisors and without the aid of our Parkhill Community Association.

In complex hearings that continued over the course of several months, the Subdivision and Development Appeal Board ultimately pronounced the Mission 34 project approval “null and void”. The decision of the SDAB speaks for itself. It reflects upon the issues pertaining to *ad hoc* redevelopment as opposed to **comprehensive redevelopment of Mission Road**, and the problems inherent in the current by-law in doing so.

Those who support the project would be wise to read and consider what the SDAB had to say about the shortcomings of the Mission 34 project.

That is the normal course of events in planning matters. One might have naively thought that the SDAB ruling had put an end to Mission 34 in its current incarnation. Residents anticipated that the sales centre that was illegally located on the site would finally be removed, and that the weeds that have overgrown the site would finally be managed to improve its unkempt appearance. But none of this has come to pass. Instead of amending the project proposal to overcome the concerns raised by the by-law and the SDAB, the developer now seeks to amend the by-law to accommodate his initial proposal! This is an unorthodox, if not unprecedented, challenge to the planning process.

This endeavor appears to have been orchestrated by the developer with the support of Councilor Carra and the Calgary Planning Commission (of which Cara is a member), by the Development Authority (who apparently provided the CPC with a redacted or incomplete file concerning the history on redevelopment of Mission Road) and also by the “planning committee” for the Parkhill Community Association, who appear to have been persuaded to ignore the criticisms of the project provided by the SDAB.

I understand the (profit) motivation of the developer, but less so that of Councilor Carra who appears to have abandoned the call for comprehensive redevelopment of Mission Road. Instead of advocating for the concerns of residents who live adjacent to this project the Parkhill Community Association openly supports the developer –apparently ignoring the decision of the SDAB and the unlawful uses which the developer has made of the site for many month pending development approval. The Parkhill Community Association appears to takes the position, in effect, that the interests of adjacent neighbours must be sacrificed to allow Mission 34 to proceed because it is in the “public interest”.

If the Community Association is to express an opinion as to what constitutes the “public interest” they should in my view reflect upon the comments and concerns of adjacent residents in that discussion: No committee made up of only a few people should deem what is in the “public interest”. A more open process is called for. Moreover, in circumstances such as this it should suffice for the Parkhill Community Association to observe that the community is divided on the matter –which it clearly is. The deciding vote for or against the project on behalf of the entire community should not rest with a few people who happen to sit presently on a planning committee.

Unlike others who may venture an opinion, myself and other neighbours who participated in the SDAB appeal can openly express our bias: We live adjacent to the proposed development. We attended many days of hearings before the Subdivision and Development Appeal Board at considerable cost and inconvenience in order to influence the developer to adopt a proposal that is more in keeping with the concerns raised in the hearing –apparently to no avail.

It would be inappropriate for me to suggest wording for a new by-law. But it would be helpful for me to provide suggestions for overall guidance or direction by way of opinion and comment. In that context, when considering a new by-law for the Mission Road redevelopment area, kindly consider the following:

1. The challenge is to provide for a by-law that will deal with all planning concerns for the entire Mission Road redevelopment area, and not simply for one project such as Mission 34; The by-law should encourage ***comprehensive redevelopment*** and not *ad hoc* approvals;

2. Separate DC by-laws should not be adopted simply to satisfy the desire of individual land owners. Otherwise, **comprehensive redevelopment** becomes impossible as the demands of one owner become compounded by the demands of others to stretch the by-law beyond its limits;
3. Everyone wants to know what the resulting project(s) will look like along the entire stretch of Mission Road. But that may not be practical. However, if **comprehensive redevelopment** is to be achieved, the land use by-law ought to be tied to plans which give a general picture, and which require coordinated development or allow phased development which requires each phase to respect and integrate with adjacent structures (existing or proposed) and the existing community;
4. Council should avoid approving numerous DC by-laws with numerous plans attached, unless such plans and DC by-laws governing the entire redevelopment area can be adopted at the same time. Coordination of development in the area is the key;
5. By-laws must consider the **cumulative impact** on traffic and safety resulting from **comprehensive redevelopment** –not simply the isolated impact of each of several proposals as they may arise;
6. Increased density is to be encourage, but within reason. Former land use allowed one or two units per lot. An increase of four-times that density would not be excessive, but density in excess of this is not in keeping the amenities of the neighbouring residents due to traffic, parking, etc.
7. The height of buildings abutting Mission Road might be 4-5 stories high before they would impact negatively on surrounding residents. However, the height of buildings on the alleyway should not exceed one story –as was agreed by residents in the charette process—and setbacks from the alleyway should allow for greater openness and visibility in the alley;
8. The alleyways should be paved and made more open to allow proper “animation”, otherwise they become dark and dangerous places where ‘bad’ things can happen;
9. Power lines in the alleyway should be placed underground to facilitate setbacks;
10. Common areas and green space should form part of the overall redevelopment in addition to private amenity areas (i.e., balconies);

11. Provision should be made for very few common access and egress points for garbage pick-up for all lots within the development area, to avoid proliferation of garbage stalls and unsightly refuse areas across the entire redevelopment area;
12. Architectural design is important, but difficult to regulate. If DC by-laws are to be tied to plans, the plans should provide for a high-grade construction and impose architectural guidelines.

Overall, please remember:

1. Mission Road represents one of very few redevelopment sites in Calgary, the outcome of which will affect the nature and character of the inner city;
2. Area residents are NOT opposed to redevelopment, but oppose proposals that are too dense, too massive, or which constitute a “wall” between new developments and the existing communities; Area residents do not want a “wall” of massive buildings which over-shadow existing residences or constitute a barrier between new and existing building structures;
3. Area residents want redevelopment that will not adversely affect the amenities of the existing neighbourhood;
4. Area residents want redevelopment that is sensitive to the existing neighbourhood. We do not want to fight with the Development Authority. We do not want to fight with neighbours, nor with developers, nor with Councilor Carra, nor with the Parkhill Community Association. But we encourage a process that is transparent and that the interests of all participants are put on the table!

The owners of properties on Mission Road from Macleod Trail to 34th Avenue have allowed their properties to fall into disrepair. The entire block now constitutes a blight on the neighbourhood. It is essentially a ghetto created solely by the landowners themselves by failing to maintain their properties. Their motivation, presumably, is to influence residents to support redevelopment of the area —any redevelopment, regardless of quality. That is unacceptable.

I encourage City Council to take a comprehensive approach to redevelopment of Mission Road.

Sincerely yours,

Wm. E. (Bill) Gagnon
cc. neighbours of 34th Avenue S.W. and environs