

**From:** Melanie Cameron

**Date:** Sunday, April 21, 2024 at 6:51 PM

**To:** <scott.davey@kitchener.ca>, <dave.schnider@kitchener.ca>, <jason.deneault@kitchener.ca>, <christine.michaud@kitchener.ca>, <ayo.owodunni@kitchener.ca>, <paul.singh@kitchener.ca>, <bil.ioannidis@kitchener.ca>, <margaret.johnston@kitchener.ca>, <debbie.chapman@kitchener.ca>, <stephanie.stretch@kitchener.ca>, <mayor@kitchener.ca>, Brian Bateman <Brian.Bateman@kitchener.ca>, Elizabeth Leacock <Elizabeth.Leacock@kitchener.ca>, <mariah.blake@kitchener.ca>

**Cc:** Marguerite Love, Melanie Cameron

**Subject:** TIME-SENSITIVE: Concerns & Questions re Handling of 136 Brentwood Ave (Res 4), in City Staff Report #DSD-2024-061: Proposed Jackson/Brentwood Development

**NB: TIME-SENSITIVE**

**If possible, please review prior to the Monday, April 22 Planning and Strategic Initiatives Meeting**

**RE: City Staff Report #DSD-2024-061**

**(Pertaining to Amendment Applications OPA24/002/J/BB and ZBA24/002/J/BB: Proposed Jackson/Brentwood Development)**

**Dear Councillors Chapman and Singh (P&SI Comm. Vice/Chair), Stretch (Ward 10), all other Councillors, Mayor Vrbnovik, Brian Bateman (Senior Planner & Report author), and City Staff colleagues,**

I apologize for the very short timing between your receipt of this letter from me, and the Apr. 22 Planning and Strategic Initiatives Meeting. (I had assumed that the City Staff Report for the Jackson/Brentwood development would not be available to the public until its presentation at the Apr. 22 meeting, and only learned a few days ago that it had already been publicly released.)

I request that you take any opportunity you might have to review this letter prior to the Apr. 22 evening meeting.

I have endeavoured to share **several significant concerns about the Report's handling of the 136 Brentwood Ave property (the sole Res 4 property included in the developer's proposal), along with my resulting questions.**

**CONCERNS & QUESTIONS:**

**1/ COMPLETE ABSENCE OF DISCUSSION REGARDING BYLAWS/PROVISIONS FOR RES 4 PROPERTY USES**

The Report consistently and repeatedly uses language such as, "the majority of the lands... are presently zoned 'RES-5', a zone which already permits..." (first example on pg. 1); and the Report discusses, in great detail, Res 5 Bylaws, Provisions, Proposed Amendments, and Justifications. However, nowhere does the Report discuss, nor mention, Bylaw Provisions with regard to a Res 4 property (the Bylaws applicable to 136 Brentwood).

**QUESTION:**

**A/ Why not?**

**2/ FAILURE TO MENTION THE WORD "REZONING" & FAILURE TO DISCUSS REZONING REQUIREMENT (from RES 4 to RES 5) OF 136 BRENTWOOD**

During the Feb. 21 Public Meeting, minutes 18.40 through 19.22 of its recording (see <https://www.youtube.com/watch?v=WymZ7-aLK8U>), as City Staff introduce inclusion of 136 Brentwood Ave within this proposal:

- City Staff's slide reads: "136 Brentwood to be rezoned to RES-5 with Site-Specific Provision."
- City Staff verbally reiterates that 136 Brentwood is to be Rezoned to RES-5, and states: "This is to implement the conceptual plan, and for the additional permissions being requested. And the intent, here, is to provide one consistent Zoning for the property. So it's one consistent Zoning with Site-Specific Regulations."

#### **QUESTIONS:**

Why does the Report entirely omit:

**A/** the word "Rezoning"?

**B/** discussion of what Rezoning would entail, with specific regard to Res 4 Bylaw Provisions?

**C/** discussion of potential short- and long-term impacts of a choice to Rezone a Res 4 property, currently providing housing to several individuals, on a street which otherwise comprises, on every property without exception for its full length, single detached dwellings?

**D/** discussion of precedent that Rezoning a Res 4 Brentwood Ave property will set for potential future requests from this/other developer(s) (this question is of heightened importance, as residents have publicly identified that this developer is acquiring properties elsewhere in the neighbourhood, including along Fairmont, where homes' rear lot-lines abut the proposed wooded "private amenity" and "passive recreation" space (pg. 12)?

#### **3/ FAILURE TO MENTION PLANNED PARKING STRIP/AREAS FOR 136 BRENTWOOD PROPERTY & OVERT MISREPRESENTATION OF WHERE TOTALITY OF PARKING WOULD BE LOCATED TO MEET PROPOSED VEHICLE PARKING RATE OF 1.02**

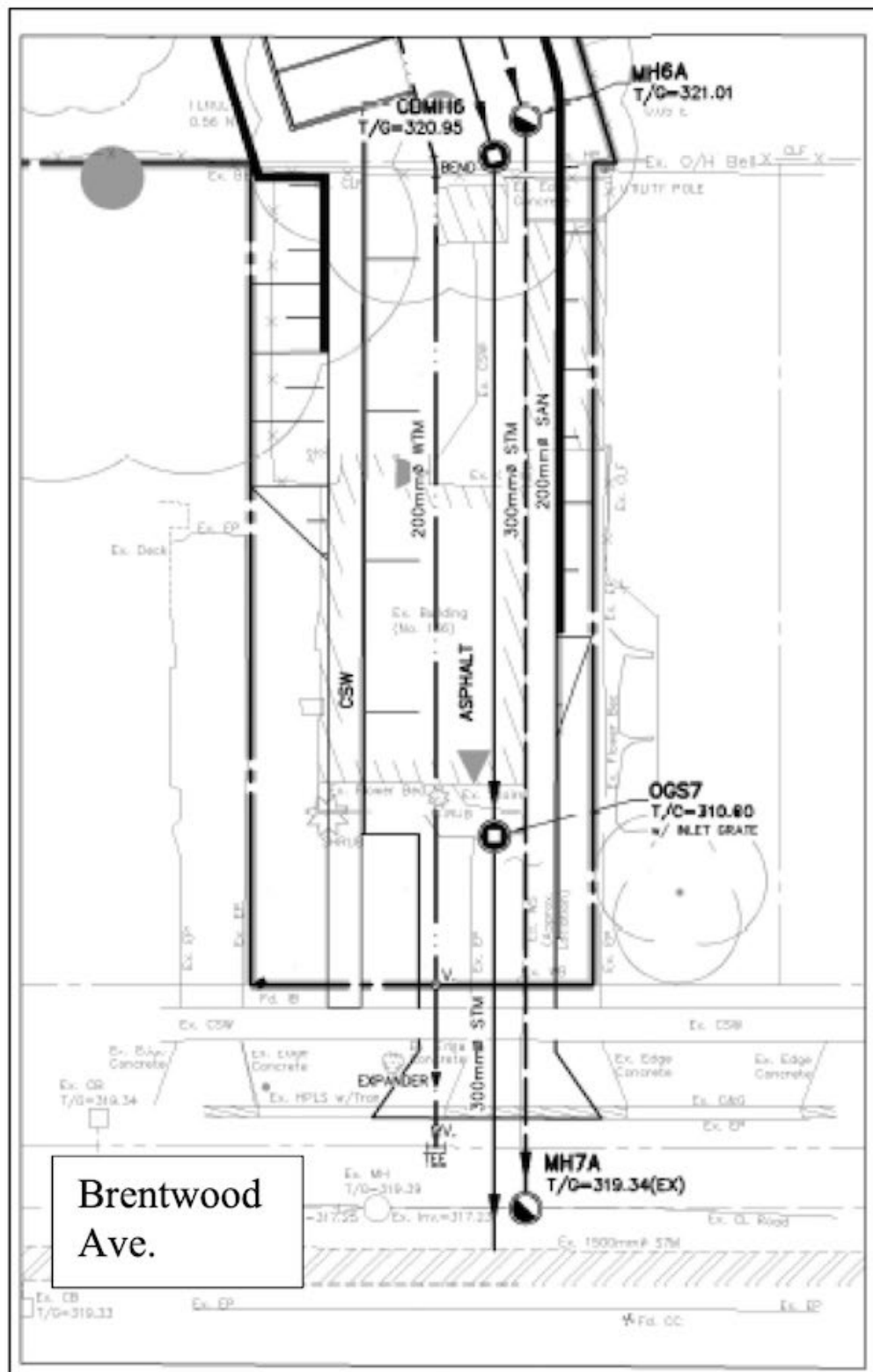
Please examine the following Proposed Plan renderings, and take careful note of all sections pertaining to the 136 Brentwood property (which, throughout the Report, has consistently been referenced as a proposed "access laneway"), in particular:

- Figure 6, pg. 7 ("Proposed Servicing through 136 Brentwood Avenue")
- Figure 2, pg. 4 ("Initial Conceptual Site Plan, January 2024")
- Figure 3, pg. 6 ("Revised Conceptual Site Plan, March 2024")

(Figures can be viewed in context of the Report, here: <https://pub-kitchener.escribemeetings.com/filestream.ashx?DocumentId=17355&fbclid=IwAR0YM3w-tRRZWliKfe2wZdp78-5gOoWM8z4JR6n5biR98bxexa57qXqOqmY>)

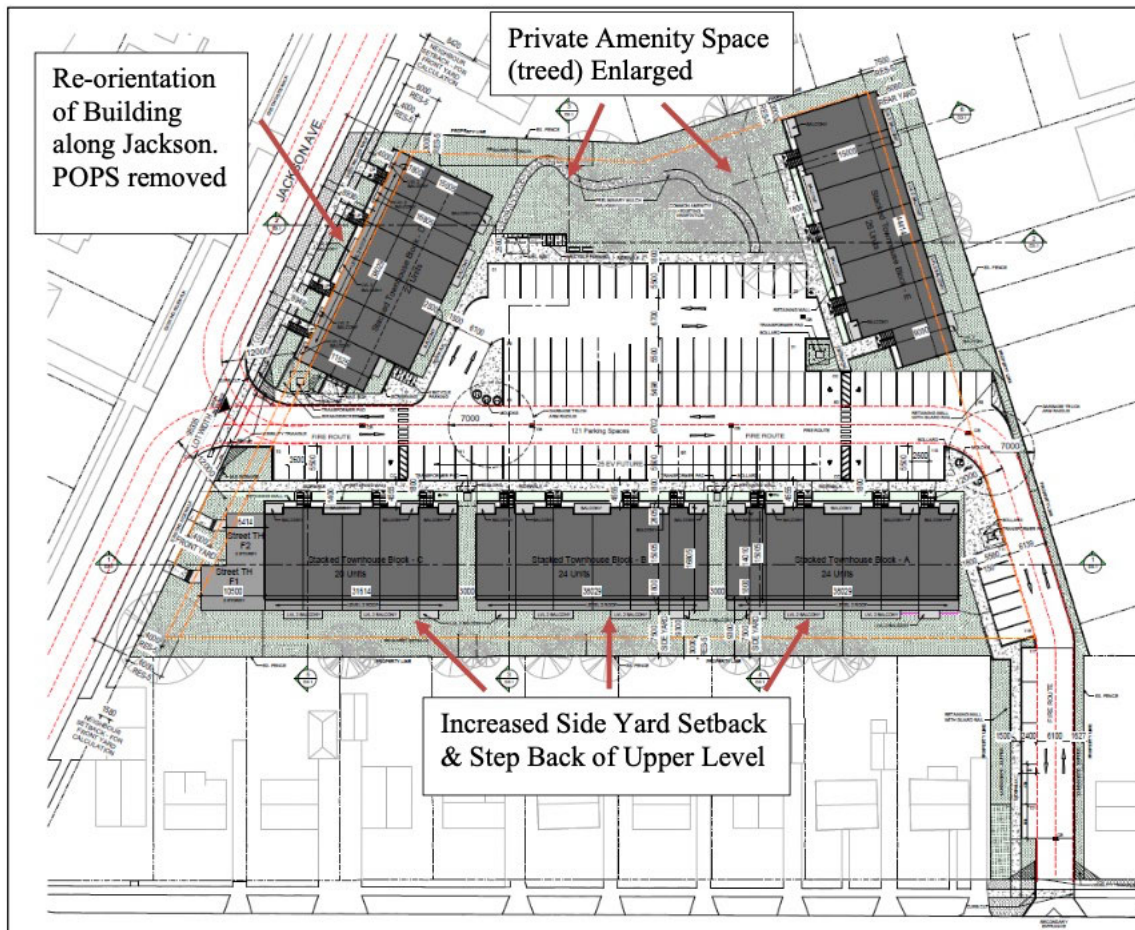
If your versions of the rendering are comparable to those shared with the public, you will note:

- i/ There does not appear to be any parking proposed on the 136 Brentwood property, at the Initial Conceptual phase. This is the 136 Brentwood Site Plan rendering that was shared and discussed at the Feb. 21 Public Meeting.
- ii/ However, when you look at Figure 3, and particularly at the enlarged Figure 6, while the labels are illegible, you will note the Revised rendering proposes, along the left- and right-side lot-lines, 5 full-sized vehicle parking spots, as well as what appear to be parking locations for smaller motorized vehicles (e.g. motorcycles) and/or Class A Bicycle parking/lockers and/or perhaps garbage and recycling bins.



**Figure 6 – Proposed Servicing through 136 Brentwood Avenue**





**Figure 3 – Revised Conceptual Site Plan, March 2024**



**Figure 2 – Initial Conceptual Site Plan, January 2024**

## **QUESTIONS:**

**A/** Why does the Report (consistent with the Feb. 21 Public Meeting) refer to the proposed use of the 136 Brentwood property, CONSISTENTLY AND ONLY as an “access laneway,” when it is apparent, in these Revised Site Plans Figures, that parking (and perhaps garbage/recycling collection) is a proposed use for a portion of this property?

**B/** What, indeed, are each and all of the site features rendered in Figure 6, and illegibly labelled in versions shared to the public?

**C/** The Report states that “surface parking is situated internal to the site away from existing surrounding properties to minimize impact” (pg. 11). Moreover, parking being “situated internal to the site” is a key factor to which the Report refers, when concluding that “for these reasons, staff is of the opinion that ‘adequate and appropriate’ parking test is satisfied” (pg. 11).

However, a careful tally of the parking spots rendered on the Res 5 portion (i.e. “situated internal to the site”) of the Revised Conceptual Plan, PLUS the 5 parking spots rendered on the 136 Brentwood property, equal the total number of spots the Report indicates will exist, given the cited 1.02 ratio. Why was the location of the totality of surface parking misrepresented / not disclosed, in the City Staff’s written Report?

## **4/ DISTANCE TO SIDE-LOT LINES OF 140 and 132 BRENTWOOD, FROM SIDELINES OF LANEWAY, PARKING SPOTS, PEDESTRIAN WALKWAYS, etc., PROPOSED FOR 136 BRENTWOOD**

The Report provides extensive discussion and precise measurements of set-backs from rear lot-lines of all other properties impacted by this proposal.

The Report fails to provide any proposed set-back distance of parking, walkways, laneway, possible bicycle lockers and/or waste/recycling bins, etc, from the side-lot lines of the abutting 140 and 132 Brentwood properties.

## **QUESTIONS:**

**A/** Why this omission?

**B/** What are the proposed side lot-line setback measurements?

**C/** What is an acceptable side lot-line setback measurement, in a Res 4 Zone, according to Bylaw Provisions?

## **5/ APPARENT MISREPRESENTATION THAT ACCESS TO MUNICIPAL SERVICES IS “REQUIRED” VIA 136 BRENTWOOD**

The Report states that “a second access off Brentwood Avenue is proposed. This... allows for a servicing connection.... both sanitary and storm... to service the development” (pg. 5; version of same information also on pg. 2), and that “both sanitary and storm connections are also required through the Brentwood access to service the development” (pg. 5).

Meanwhile, the report also cites that “full municipal services exist within the Jackson... rights-of-way” (pg. 19).

It is my understanding that, at no time prior to the release of this Report did Staff publicly raise Municipal Services access as a factor in inclusion of 136 Brentwood in the development proposal: therefore, no opportunity was made for citizens to pose questions / conduct research / share concerns in a time-sensitive way, with respect to the slated Apr. 22 and 29 decision-making meetings.

## **QUESTION:**

**A/** What is City Staff’s argument that 136 is UNIQUELY “required,” for a servicing connection, when City Staff note that full Municipal Services also exist within the Jackson rights-of-way?

**B/** Might it be reasonable to explore the possibility that the developer PREFERS a Brentwood access for Municipal servicing connections, for matters of ease / reduced expense / etc.?

## **6/ MISREPRESENTATION THAT A SECONDARY LANEWAY IS “REQUIRED” FOR EMERGENCY ACCESS VIA 136 BRENTWOOD**

- i/ The Report does not cite – and I have been unable to locate elsewhere – any Bylaw stipulating that developments of any size (unit number, building number, land coverage, height, etc.) require multiple access lanes, much less access lanes from multiple streets.
- ii/ The Report indicates that “a second access off Brentwood is proposed... in the event of one of roads are closed [sic]” (pg. 5). Meanwhile, the block of Jackson in question is accessible from both ends of Jackson Ave via Weber and Brentwood (SW), and via Fairmont (NE); and Weber, Brentwood, and Jackson are all accessible via multiple cross streets to the NW and SE of Jackson (Montgomery, Sheldon, Raymond, Edmund, Clive).
- iii/ The Report’s claim that a secondary access is required via Brentwood contradicts a plethora of existing examples elsewhere in the City. In fact, more than one residential complex (one of which contains a comparable 94 units) exists on a street **dead-end** (Sheldon Ave) in this very neighbour, and each of these complexes has only a **single** access lane.

It is my understanding that, at no time prior to the release of this Report did City Staff publicly raise emergency access as a factor in inclusion of 136 Brentwood in the development proposal: therefore, no opportunity was made possible for citizens to pose questions / conduct research / share concerns in a time-sensitive way, with respect to the slated Apr. 22 and 29 decision-making meetings.

### **QUESTIONS:**

- A/** In combination with my preceding points (particularly my observation regarding parking spot tallies in my section “**3C,**” above), and in reviewing the proposed parking spot layout and traffic flow of the “internally situated” parking plan rendering in Figure 3, might it be most logical to assume that the developer “requires” 136 Brentwood Ave as a laneway and parking area, primarily in order to meet parking requirements?
- B/** If the developer genuinely believes that a secondary lane is required, in case of emergency, does he not have the option to again readjust building orientations, in order to achieve this goal, which is not actually required by Bylaw nor any other governing Policy?

## **7/ CONTRADICTION INFORMATION AND/OR LACK OF CLARITY RE SATISFACTORY COMPLETION OF NOISE STUDY & RECOMMENDATIONS TO MITIGATE NOISE**

Report pg.16 indicates that “a Holding Provision has been added requiring the owner to complete the Noise Study submitted with the application to the satisfaction of the Region of Waterloo,” and pg. 10 indicates that “the Region is requesting a Holding Provision until the updates to the noise study have been received and accepted by the Region.” Meanwhile, pg. 20 indicates that “Regional staff have advised City staff that they have no concerns with the findings of the study and that the recommendations to mitigate noise are to be implemented through a Section 51 agreement with the Region.”

### **QUESTIONS:**

- A/** Is a Noise Study satisfactory to the Region still pending, or not?
- B/** What specific required actions does the Report refer to, in its phrase: “the recommendations to mitigate noise are to be implemented”? And who are the recommendations to be implemented by (the developer?; the City?)? Will the public have any opportunity for input into whether the recommended mitigations might/not meet their needs?
- C/** Do/will the (pending) Noise Study recommendations take into consideration the noise impact on 140 and 132 Brentwood, as uniquely situated beside the proposed laneway and (now apparently) parking strip? Or do the (pending) Noise Study recommendations consider only the noise impact of the proposed development upon the neighbourhood at large?

**8/ CITY'S ADMISSION TO IMPACT OF PROPOSED 136 BRENTWOOD LANEWAY ON ADJACENT PROPERTIES (140 and 132 Brentwood), WITHOUT ADMISSION OF IMPACT TO PROPERTY VALUES OF ADJACENT PROPERTIES (140 and 132 Brentwood)**

On the one hand, the Report states that: "[t]he lands can function appropriately and not create unacceptable adverse impacts for adjacent properties by providing both an appropriate number of parking spaces and an appropriate landscaped/amenity area on the side" (pg 13); and "Planning staff are not able to predict the impact of a new development on property values" (pg. 20).

On the other hand, the Report states: "Staff... do recognize the impact it [traffic entering and exiting the proposed development via the Brentwood access] can have on adjacent properties" (pg. 18).

**QUESTIONS:**

**A/** Given that Staff recognizes and acknowledges impact of traffic to the 140 and 132 Brentwood properties, specifically, doesn't it also then logically follow that there is indeed reason to predict negative impact on the property values of 140 and 132 Brentwood?

**B/** What is a developer's responsibility vis a vis compensation to the 140 and 132 Brentwood owners/residents, whose financial losses he would be catalyzing -- and whose very daily lives he would be impacting significantly, consistently, and indefinitely -- to his own substantial gain? If he holds no responsibility for compensation, legally, how about ethically? Could he reasonably be invited by City or Council to consider a fair financial gesture of good will to the owners of 140 and 132 Brentwood, should his desire to implement a laneway through 136 Brentwood indeed come to fruition?

**9/ ASSESSEMENT OF "COMPATIBILITY TESTING" AND COMPLIANCE WITH "URBAN STRUCTURE MANDATES" APPLY ONLY TO THE RES 5 PORTION OF THE APPLICATION**

The Report outlines Provisions related solely to the Jackson properties, "already currently zoned 'RES-5'... [t]he use of the property... already established.... [and the] amendment proposes to improve the quality and compatibility of the built form..." (pg. 11). Staff then conclude that: "For these reasons, the proposal satisfies the 'compatibility' test" (pg. 11). However, nowhere is discussion of compatibility, nor a "compatibility test" assessment, offered with regard to how the proposed laneway and parking strip planned for 136 Brentwood is in/compatible with the 140 and 132 properties sharing its side lot-lines.

Furthermore, Ontario Site Plan Control Bylaws are "designed to ensure" that "nearby properties are protected from incompatible development" (Ontario Citizens Guide: Land Use Planning). And the Report acknowledges the City's alignment with this Bylaw, through its City of Kitchener Official Plan, which states: "Community areas may have... development being sensitive and compatible with the character, form, and planned function of the surrounding context" (pg. 10).

It is not difficult to see that the transformation of what had been a Res 4 single-family home and its quiet backyard, into a vehicle parking strip, bicycle storage, pedestrian walkway, possible garbage/recycling bin area (unclear, in publicly-shared Figures), and a proposed laneway running the lot's entire length -- servicing potentially upwards of 400 or 500+ development residents' vehicles and pedestrian traffic, as well as the traffic of their service and delivery persons and visitors -- on a street currently comprising detached dwellings, without a single exception, on both sides and from beginning to end, could not be more antithetical to "sensitiv[ity] and compatib[ility] with the character, form, and planned function of the surrounding context" (pg. 10).

**QUESTION:**

**A/** Why does the Report not include "Compatibility Testing" between the proposed use of the 136 Brentwood property and the adjacent Res 4 properties? Why does it fail to discuss the blatant misalignment of plans for the 136 Brentwood property, with goals of "sensitivity to and compatibility with" the abutting properties?

**10/ MITIGATING MEASURES THE DEVELOPER COULD TAKE VS WILL TAKE**

The Report makes statements, with regard to impact on 140 and 132 Brentwood, such as: “To mitigate [acknowledged impact of traffic passing via a proposed 136 Brentwood laneway], a number of design measures can be implemented such as fencing in combination with vegetation screening. This will be examined in more detail at the Site Plan review stage” (pg. 18); and that “high-quality urban design... will be used to direct the development through a future site plan application” (pg. 12).

#### **QUESTIONS:**

**A/** How could the owners of 140 and 132 Brentwood be expected to trust that the developer will proceed in a manner satisfactory to residents at 140 and 132 Brentwood?; and/or how could the owners of 140 and 132 be expected to trust that the City will hold the developer accountable to seeing through such “potential mitigations,” during the Site Plan Review: when the City has not even offered written public disclosure/discussion, in this Report, of such significant facts as the developer’s plan for strips of parking spaces on the 136 Brentwood property?

**B/** And how would the “mitigating” factor of a fence and some vegetation address Staff’s acknowledged impact on these adjacent properties, with regard to traffic noise, idling and exhaust fumes, litter, headlights glaring in through front, rear, and second-floor windows, etc?

#### **11/ NO DISCUSSION OF OWNERSHIP OF FENCE SURROUNDING “THE MANSION” PROPERTY**

In a Mar. 27 /24 letter to City Staff and Councillors, I shared that a Brentwood neighbour reports that the fence surrounding “the Mansion” was paid for collectively by all property owners sharing this fenceline, and I requested that Brian Bateman investigate related documentation and report back. Having not received acknowledgement of / information about my request, from Brian, I emailed again on Apr. 4, and received an emailed reply from him that day, stating: “[I]f this is in fact true, I would have no way of confirming this without seeing official written documentation confirming this so-called fencing arrangement. Regardless, that would be a private property (civil) matter that the City would not get involved in.”

#### **QUESTIONS:**

**A/** If the City is not required to ensure the developer of such a large complex has legal right to remove the bricked fence extending around the entirety of “the Mansion” property, thereby sharing fence-lines with the majority of properties on the Jackson/Brentwood/Montgomery/Fairmont block, could the City at least inquire with the developer as to whether he would be willing to verify his legal right to removal of the fence, as a gesture of reassurance and good will toward the neighbours who will be impacted by this development?

**B/** As the fence portion at the back of 136 Brentwood would have to be removed, in order for the developer to achieve his current conceptual plan of using 136 Brentwood as a laneway into the primary area of development; and as the fence would have to be removed in order to regrade the land and construct the proposed building units: if neighbours are indeed able to provide documentation that this fence is collectively owned, and if the collective of owners refuses to grant rights to have it removed, how would that impact the proceeding of this proposed development plan, both with regard to 136 Brentwood specifically, and as a whole?

#### **12/ IMPACT OF DECISION-MAKING DEADLINE, ALONGSIDE REALITY OF REPORT’S MISREPRESENTATIONS / DISCREPANCIES / OMISSIONS / LACK OF DISCUSSION WITH RESPECT TO PROPOSED CHANGES TO RES 4 PROPERTY, 136 BRENTWOOD**

Report pg. 21 indicates that “[a] decision must be made by Council prior to May 9, 2024 or the Planning Division must issue an application fee refund of \$12,800.00.... The Development and Housing Approvals Division does not have a funding source or budget for refunding planning application fees.”

#### **QUESTION:**

**A/** Does this May 9 deadline, and lack of ability to refund, mean that, if Councillors object to the treatment of Res 4 property 136 Brentwood – within the developer’s proposed plan and/or within the City’s handling



of its discussion within this Report – Councillors are thereby strongly pressured to ignore the improper handling / resulting outcomes, and vote in favour of the entire proposal, at the Apr. 29 meeting?

## **CONCLUSION**

**1/** As the only Res 4 property under consideration, and given the considerable discrepancies and omissions in the representation of matters pertaining to it, I request that you initiate opportunity for Committee (Apr 22) and Council (Apr 29) to engage in a separate portion of discussion, following a separate line of discernment, regarding 136 Brentwood, specifically.

**2/** Please endeavour to uncover a clear and complete picture, with all factors overt, of the developer's reasons to seek inclusion of 136 Brentwood in this development plan.

**3/** Please weigh whether or not the Report presents and thoughtfully discusses the actual reasons for which the 136 Brentwood property has been included in this development proposal. If you find that it has not, please reflect carefully on the wisdom of endorsing the findings of such a Report / this aspect of the Report recommendations, irrespective of what might be logistically easiest or most financially advantageous for the City.

Neighbours who are largely laypersons, with regard to the pertinent matters, are relying on you, as leaders experienced in the parsing and deciphering of our Bylaws and other governing protocol, to stand up and speak up for them, in cases exactly such as this: where it surely appears, to my eye, that it would serve the developer and/or the reporting City Staff if we did not notice the misuse (whether intentional or not) of this Reporting tool, with regard to 136 Brentwood, specifically.

Thank you for your time to read and consider my detailed letter.

And thank you for your effort to see this process through in a careful, wise, judicious, and ethical manner.

Sincerely,

Melanie Cameron.