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**Date:** June 1, 2020

**To:** Mayor and Council

**Author:** Jennifer Astrologo, Director of Corporate Services/Clerk

**RE:** Disclosure of Information – 190/200 Main St. E Medical Clinic

**Report No.:** CS-2020-018

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## **AIM**

To provide Council with an opinion in response to Motion 285-2020 regarding the information that can be shared with respect to the discussions, reports, investigations and negotiations that occurred in relation to the medical clinic development at 190-200 Main Street East.

## **BACKGROUND**

At the April 27, 2020, Regular Meeting of Council, the following motion was adopted (#285-2020):

“That Council directs Administration to provide a Report from our Director of Corporate Services on exactly what content and facts from the discussions, reports, investigations and negotiations regarding 190 Main Street East are able to be shared with the public so that Council may address the concerns and questions from residents without risk of being in contravention of our Code of Conduct.”

Paragraph (c) of the Code of Conduct for Members of Council, Local Boards and Committees (the “Code”) mandates that information discussed in closed session must be kept strictly confidential and must not be disclosed publicly unless permitted, or required by law. Specifically, paragraph (c) reads: “The Member has a duty to hold in strict confidence all information concerning matters dealt with “In Camera”. The Member shall not release, make public or in any way divulge any such information or any aspect of the “In Camera” deliberations, unless expressly authorized or required by law to do so.”

All Council and Committee members, upon being sworn into office or appointed to a committee, must execute a Statement of Commitment, acknowledging their understanding of, and agreement to abide by, the Code.

Finally, the Town's Procedure By-law prohibits the disclosure "of any discussion or direction of Council that was given or provided at a Closed Meeting of Council."<sup>1</sup>

## **DISCUSSION**

Pursuant to the Code, information discussed in a closed meeting must be held in the strictest of confidence. This is normal practice and protects the interests of both Council and the Town. No member of Council may unilaterally waive the confidentiality of any information discussed in closed session. Rather, if Council deems it desirable or appropriate to release information, Council may, in closed session, vote on a motion to direct the release of that information. Part of that direction should include clear instructions about what information will be released and a communication strategy directing that release.

Council entered into closed session approximately eight times between December 16, 2019 and May 1, 2020 to discuss matters relating to 190-200 Main Street East. Each meeting was duly advertised, citing the appropriate section of the legislation, and was entered into in accordance with the Town's Procedure By-law. Of the eight "in camera" meetings, Council cited subsection 239(2)(f), legal advice exemption, for all of them.

There is no motion from Council authorizing the release of any information discussed in closed session. Absent that direction, none of the information discussed in those in-camera meetings is appropriate to release to the public. As an aside, much of the information received by Council in those closed-session meetings was in the form of legal advice. Administration strongly recommends against disclosing any information subject to solicitor-client privilege.

That being said, there is a significant amount of information in the public domain pertaining to this issue, which can be discussed with the public. In this regard, Council is referred to the follow reports:

- Application for Site Plan Amendment by Tay Inc. 190 Main St. E., Part of Lot 1, Concession 2 ED Part 2, RP 12R 26799 (presented to Council December 9, 2019)
- Site Plan Amendment Application SPA/07/2020 by Tay Inc. 200 Main St. E., Part Lot 2, Concession 1 ED, Part 2, RP 12R 26799 (presented to Council April 27 and May 4, 2020)
- Permit and Site Plan Review Processing (presented to Council May 25, 2020)

Those reports, and accompanying attachments, provide information related to the history of the initial planning approvals, the planning considerations for the original and amending applications, various planning considerations as articulated by the Town's Manager of

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<sup>1</sup> Procedure By-law, By-law55-2016, as amended, paragraph 21.

Planning Services and an independent opinion from a qualified independent third-party planner. Moreover, the most recent report from the Manager of Planning Services describes how that development was processed internally and details the steps that are being taken to prevent a similar occurrence moving forward.

Based on the foregoing, the information contained in the reports cited above, may be further discussed with members of the public. The legal opinions and closed session reports, to the extent that the information contained therein is not included in any open session report, may not be disclosed to individuals not present at those meetings absent the adoption of a resolution by Council authorizing disclosure of same.

## **LINK TO STRATEGIC PLAN**

Promote the betterment, self-image and attitude of the community.

## **FINANCIAL CONSIDERATIONS**

There are no financial considerations

## **CONSULTATIONS**

Senior Management Team

## **RECOMMENDATION**

That Council receive the report titled Information Sharing – 190-200 Main St. E., regarding the parameters under which Council may discuss the information that it received, in both Open and Closed Session Meetings, regarding the development of 200 Main St. East.

*Jennifer Astrologo*

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