

RE ALTERNATIVE A
Presentation to Council
By Erskine Duncan 14 October 1997

Council's decision a little over a year ago to approve Alternative 'B' involving the one-way traffic signalization of the Mill Street underpass was made, for whatever reason, in spite of the Department of Works strongly stated recommendation of Alternative 'A'.

If today, Council decides that Alternative 'A' is the best solution, as is so strongly being emphasized by residents - and has all along been recommended by your own experts, the Public Works Department, then it is not only appropriate upon Council's part to rescind approval of Alternative 'A' it is your DUTY to do so. You were elected to govern - to govern in the best interests of this community. So - if good governance requires a previous decision to be altered, you have a duty to do so.

Now, concerning possible fears of litigation which may be expressed by Council. We know you have obtained legal council's advice. We do not know what that advice is, but we have also taken the trouble to obtain a legal opinion.

If you conclude tonight, that in light of the reasons presented both on October 6 and tonight by the residents of this community - and in light of the consistent advice of your experts, the Public Works Department, that Alternative 'A' is clearly the best solution, you, the the governing Council of this community are lawfully entitled to rescind Alternative 'B' and approve Alternative 'A'.

The idea that someone, namely the developer, will sue this government because upon sober reflection you have decided to accept the advice of your experts and the strongly expressed desires of the residents,

then that idea will only have some threat if the developer can detail and prove some financial damage as a result of the change. The developer has done no work nor expended any money on Alternative 'B' - he could not because the engineering details for Alternative 'B' have not been completed by Public Works.

If the idea of being sued is a factor, then it is an empty threat. There must be a measurable financial loss which is solely dependent upon that specific former approval. AND bear in mind that the developer in this case clearly persuaded Council to pursue a course of action when he had clear knowledge that it was not the recommended best option. Further, it was obviously the cheapest approach with obviously no consideration for either the convenience or far more importantly, the safety of the people and particularly the children of this community.

The comment made by Mr. Brenton Rickard, President of the Newcastle Ratepayers Association, to several of us when the subject of possible litigation came up, sums this all up in three words 'Call their bluff'.

One final point, if a serious accident or worse, a death occurred as a result of Alternative 'B' being implemented in spite of expert advice that it was clearly not the best solution- and in spite of requests and even demands, from residents that it not be implemented - what might be the likelihood of a very sizeable legal suit against the Town?

CONCLUSION

Now to sum up the presentations we made tonight and on October 6, 1997 at the GPA meeting we request the Council to:-

1. Do whatever is necessary to rescind Alternative 'B' and approve Alternative 'A'.

2. Deny approval of the placement of Block 160 Residential Complex in front of the Coastal Road.
3. Rescind Amendment 161 of the Clarington Official Plan so as to prevent any further attempt to intrude into the Waterfront Greenway by this developer or the developer of any future waterfront land in Clarington. The Official Plan will then again meet the requirements as spelled out in the Waterfront Study and the aims and objectives of the Waterfront Regeneration Trust.
4. Deny approval of an hotel or motel of up to 250 units. The developer if he is serious about an hotel/motel should have done enough study on the subject to know what his minimum requirements are and also should also be able to spell out what purpose or purposes it will be used for, so the community is fully aware of his intentions.
5. While this is of lesser importance than the first three, we do request that zoning requirements written into the Official Plan be adhered to as minimums, in order to maintain a decent level of quality in a development - and particularly in an unique lakeside property such as this.
6. In view of the serious problems which must be resolved, we request that approval of Phase 2 of the Port of Newcastle Development be denied until these problems are resolved.

We do not know what Mr. Daniell's rebuttal will be to these requests by the residents, but in the event he advises that the whole project may be

at risk - as he threatened until he finally got amendment 161 to the Clarington Official Plan regarding placement of his coastal villas in front of the Coastal Road, then our only comment would be ' If a developer can afford the infrastructure necessary to ensure the safety and convenience of the residents, present and future of this area he cannot afford to put in this development.'