

MEMORANDUM

PUBLIC CONSULTATIONS
DRAFT BYLAWS P-04-047 AND P-07-015
ESTABLISHMENT OF THE MONTREAL MUSEUM OF FINE ARTS' CANADIAN ART
PAVILLION IN THE FORMER ERSKINE & AMERICAN UNITED CHURCH, 3407 AND
3407A DU MUSÉE AVENUE

Prepared by 3415 AVENUE DU MUSEE INC.

FOR

Office de consultation publique de Montréal
1550 Metcalfe Street
Suite 1414
Montréal (Québec) H3A 1X6

presentation on May 8, 2007

CONTENTS:

Preamble	page 1
Primary Recommendations	page 1
Summary of issues or concerns	page 1
Summary of Proposed recommended solutions	page 2
Main Report	page 3

PREAMBLE

3415 Avenue du Musée Inc. represents the proprietor and manager of the immovable situated at 3415 avenue du Musée (hereinafter “**3415**”). 3415 is a brownstone type building originally constructed in 1893 and situated immediately adjacent to the proposed development of 3407 and 3407A (hereinafter “**3407**”).

Apart from the Musée des Beaux Arts de Montréal (hereinafter the “**MBAM**”) 3415 has the greatest interest and the most at stake in regard to the proposed development of 3407. The immovables at 3415 and 3407 are separated by a mere 3 metre wide laneway that provides access to the interior parking facility at 3415 as well as the fire escape of 3415. 3415 benefits from several servitudes over the property of 3407 including servitudes of view, servitudes of non-construction as well as servitudes for passage over the lane way separating the two immovables.

The individual author of this memorandum is an Engineer with experience in real estate development having worked with some of Montréal’s most renowned architects and architectural firms including projects with DCYSM and Mr. Dan Hanganu. Further the author is also a Lawyer and member of good standing of the Barreau du Québec.

Primary Recommendations

The Primary Recommendations are two solutions apart from the more comprehensive Proposed Solutions, that if undertaken should address the fundamental elements of the Concerns and Issues.

- 1. Limit the height of the new structure to the height of the existing structure;**
- 2. Close Avenue du Musée at Sherbrooke Street and allow for two-way traffic on Avenue du Musée.**

Summary of Concerns and Issues

The following Concerns and Issues are the primary concerns and issues related to the proposed development of 3407 affecting 3415. These concerns were raised by 3415 as well the neighboring residents and the residents of the Chateau Apartments situated at 1321 Sherbrooke Street West at the April 17, 2007 Séance D’information et de questions (hereinafter the “**April 17 Meeting**”)

1. Loss of sunlight;
2. Privacy related to views from the proposed development site;
3. Increased traffic and circulation of non-residents in the vicinity of the adjacent residential area;
4. Architectural integrity of the proposed development. In particular the increase in height of the proposed structure with respect to the height of the existing structures and the structures that will be preserved or restored;
5. Schedule and impact of the construction period for the proposed development.

Summary of Proposed Solutions

The following Proposed Solutions could be implemented together or separately. Each solution should therefore be evaluated in regard to the entirety of the Proposed Solutions and the effect on the Concerns and Issues presented. Further the multiple solutions presented to the same concern or issues are not presented in any specific order such as in a hierarchy based on preference or anticipated effectiveness in addressing the respective issues or concerns.

Issue: Loss of Sunlight

Solution 1: Limit any new development to the height of the existing structure

Solution 2: Any structure above the height of the existing structure should be built at a greater distance from the adjacent buildings / property line (hereinafter the “**Perimeter Solution**”)

Issue: Privacy Related to Views

Solution 1: Limit the amount of fenestration

Solution 2: Incorporate the Perimeter Solution (above) and place windows at a height of 48 inches above the floor level

Issue: Increased circulation of non-residents in the immediate vicinity

Solution 1: No entrance except for an emergency and handicap access should be located on Avenue du Musée

Solution 2: Change all the parking on Avenue du Musée as permitted parking for residents only

Solution 3: Close off Avenue du Musée to Sherbrooke Street and change traffic on Avenue du Musée from one direction to two ways

Issue: Architectural integrity and the proposed increase in height

Solution : Maintain the height of the proposed structure to no greater than the current height and construct the façade on Avenue du Musée in a manner, that is balanced with the slope of the roof of the church sanctuary and the sections that will be restored

Issue: Construction Schedule

Insufficient information is available to propose any solutions at this time; however please review the main report for details related to the concerns with respect to the construction period.

MAIN REPORT

This report is divided into sections according to the issue or concern. Each issue or concern is presented with recommended solutions to mitigate the effect of the listed issue or concern. The following proposed solutions could be implemented together or separately. Each solution should therefore be evaluated in regard to the entirety of the proposed solutions and the effect on the issues or concerns presented. Further the multiple solutions presented to the same concern or issues are not presented in any specific order such as in a hierarchy based on preference or anticipated effectiveness in addressing the respective issues or concerns. The Primary Recommendations are two solutions apart from the more comprehensive Proposed Solutions, that if undertaken should address the fundamental elements of the Concerns and Issues presented below.

CONCERNS AND ISSUES

1. Loss of Sunlight

3407 borders 3415 to the south and the Chateau Apartments to the west. Any increase in height over the height of the existing structure will have a negative impact on the amount of sunlight directed at these adjacent properties. Further this may be a violation of municipal by-laws and should be verified by the Ville de Montréal.

Solution 1: Limit any new development to the height of the existing structure

In order to limit any negative effects to the amount of sunlight reaching the adjacent properties would be preferable that the development of 3407 not exceed the height of the existing structure.

Solution 2: Any structure above the height of the existing structure would be built at a greater distance from the adjacent buildings / property line (the “Perimeter Solution”)

Another alternative to maintaining the existing height would be to only increase the height of the new structure over the height of the existing structure at a greater distance from the existing buildings, i.e. the increase of height over the existing structure would have a smaller floor space to the inferior levels; The new structure would be built at a height equal to the existing structure and any structure above this height would have a smaller floor space leaving a perimeter of approximately 5 to 7 metres undeveloped and representing the roof of the inferior levels. The new development structure would resemble in some respect a “layered cake” in a manner resembling the “Sunlife” building on Metcalfe Street. This perimeter could be used for an exterior terrace.

Maintaining the new structure at a height equal to the existing structure or reducing the floor space of any structure above the current height would reduce the available floor space of the proposed development. Extending the proposed structure in a direction south towards Sherbrooke Street can mitigate the loss of floor space. The extended structure would only be possible on the uppermost level(s) and would almost “cantilever” over the east and west slopes of the existing roof of the church at 3407. From an aerial view the new structure would resemble a horseshoe or the letter ‘U’ rather than the proposed structure that only extends parallel to Sherbrooke Street.

2. Privacy Related to Views:

The proposed development contains a full fenestration across the uppermost levels creating views directly into the adjacent properties at 3415 and at the Chateau Apartments. Compounded with any increase in height over the existing structure the views from the proposed development would significantly impact the privacy of 3415 and the Chateau Apartments. It is logical to anticipate from the fact that the individuals at the new structure would not be residents but visitors therefore a mutual respect for the privacy of the residents in the adjacent property would not be expected to be maintained by visitors to the museum. Further the views created by the proposed development may violate municipal by-laws, and it is relevant to note that the distance separating 3415 from 3407 (approximately 3 metres) and the amount of fenestration proposed may also violate both the CSA building code provisions with respect to the amount of openings facing a neighboring property and the percentage of fenestration permitted on a wall. These possible violations should be verified by the Ville de Montréal.

Solution 1: Limit the amount of fenestration

Limiting the windows facing adjacent properties and limit the total amount of fenestration to comply with the maximum percentages listed in the building code adopted by the Ville de Montréal.

Solution 2: Incorporate the Perimeter Solution and place windows at a height above 48 inches

If the uppermost levels are staggered and the windows are placed a height 48 inches from the floor level individuals inside the new development could not look down or directly into the adjacent properties but would still be able to see the mountain and these changes would not limit the amount of sunlight penetrating the new structure.

3. Increased circulation of non-residents in the immediate vicinity

It is anticipated that the development and expansion of the MBAM would increase the amount of visitors to the MBAM and thus increase the quantity of non-residents to the area. As Avenue du Musée is primarily a residential street effort should be undertaken to preserve the level of tranquility currently enjoyed by its residents.

Solution 1: No entrance except for an emergency and handicap access should be located on Avenue du Musée

All visitors to the new development at 3407 should enter and exit from Sherbrooke Street or the underground tunnels that will connect 3407 to the existing MBAM facilities.

Solution 2: Change all the parking on Avenue du Musée as permitted parking for residents only

Eliminating parking on Avenue du Musée would discourage non residents from accessing the street. A main negative impact of this solution is the effect of visitors to residents on Avenue du Musée. A system such as a possible visitors permit would have to be implemented. The feasibility of such an undertaking is not known but is not anticipated as highly viable. For this reason this solution is not strongly endorsed.

Solution 3: Close off Avenue du Musée to Sherbrooke Street and change traffic on Avenue du Musée from one direction to two ways

This is possibly the most controversial proposal contained in this memorandum; however if properly communicated to the residents on Avenue du Musée and the surrounding streets such a change would probably be adopted. The benefits to this proposal are clear and the impact of any perceived negative effects are minimal in both the quantity and severity further any perceived negative effects would possibly have the greatest impact on 3415 Avenue du Musée.

Avenue du Musée has the majority of its properties above Place Richelieu at the northern most part of the street closer to Dr. Penfield. The properties at Place Richelieu and Place Ontario have direct access to De La Montagne. A large percentage of the properties have indoor parking and laneways perpendicular to Avenue du Musée and would not experience difficulty in maneuvering along the street and changing directions.

Closing Avenue du Musée at Sherbrooke Street would deter non-residents from accessing the street and from using the street for parking. This would significantly decrease the amount of non-residents accessing Avenue du Musée to reach Crescent Street and the access to the Autoroutes available at Lucien L'Allier at the base of Crescent Street. A study of the use of Avenue du Musée determining the use of the street for access as well as for parking was understood to be completed a few years ago. This study should be reviewed or updated to determine if the hypothesis that Avenue du Musée is used primarily by non-residents.

The impact of closing Avenue du Musée on the properties on Redpath and De La Montagne would be negligible. The residents at Redpath can gain access to that street by turning north from Sherbrooke Street from both the west and east bound traffic lanes. Several residents of Redpath can also gain access to Simpson Street from various access lanes. Further by closing Avenue du Musée residents of Redpath could travel on Dr. Penfield and proceed south on either Drummond or De La Montagne.

The primary benefits of closing Avenue du Musée would be the aesthetic beauty and increased Greenpeace that could be enjoyed through replacing the intersection of Avenue du Musée and Sherbrooke Street by expanding the existing sculpture garden and integrating a parc. Not only would the residents of Avenue du Musée enjoy the benefits of the benefits of an expanded sculpture garden and parc but visitors to the MBAM and the many individuals who frequent the area would also be able to enjoy the enlarged sculpture garden and accompanying green space.

This solution is probably the most important to the residents of Avenue du Musée and the MBAM. If properly communicated and presented with detailed analysis of the fundamental effects it is likely that the residents of the area would support such an initiative. Profound studies and detailed analysis would not be necessary merely addressing the fundamental elements of each concern would be required. In fact the compilation of data not yet collected or not easily available would be an inefficient deployment of resources and may result in frustrating the residents. In addressing the concerns of the various residents and communicating the minimal impact of these concerns should be sufficient.

4. Architectural integrity and the proposed increase in height

The previous sections of this memorandum discussed the negative impact on sunlight and views of increasing the height of the new structure to a height greater than the existing structure. It is acknowledged that beauty is in the eye of the beholder and in deference to the architects developers and owners of 3407 it is relevant to account for the statements made at the April 17 Meeting. At the April 17 Meeting there appeared to be a consensus among the participants that the proposed design was over bearing and dominated the existing structures and simply “stuck out” to a degree which was not satisfactory to the residents.

In addition to negatively impacting the sunlight and views the participants in the April 17 Meeting raised concerns that the proposed structure seemed monstrous in comparison to the church structure that is to be restored.

Certain participants called the proposed design “top heavy” and in fact the proposed design lacks symmetry and poorly integrates the new structure with the section of the church at 3407 that is to be restored. Although the developers of the proposed structure communicated their desire to use similar building materials as surrounding MBAM facilities in order for the new structure to “blend” with the surrounding facilities the physical shape or dimensions of the new structure create an awkward juxtaposition with the section of the church that will be restored.

Solution: Maintain the height of the proposed structure to no greater than the current height and construct the façade on Avenue du Musée in a manner, which counters the slope of roof of the church sanctuary and the sections that will be restored.

The current proposed design merely replaces the existing structure with a vertical tower square and rectangular in shape. As currently proposed the height of the new structure is above the section of the church that will be restored this creates a dominating effect for the new structure that dwarfs the majestic qualities of the church. An effort to incorporate the two sections should be undertaken. A good example of a modern structure which incorporates the design shape of an older church is the Place De La Cathedrale building at 600 de Maisonneuve. Although the Place De la Cathedrale incorporates a more Gothic style of architecture it can still serve as an inspiration to the architects currently developing the 3407 project.

Several of the solutions already proposed in this memorandum, in particular the Perimeter Solution, could be combined to achieve greater symmetry or harmony between the two sections and to better incorporate the modern and the restored sections.

5. Construction Schedule

The demolition and construction schedules have not been made public. The size of the proposed project and in particular the demolition of the existing structure, are of great concern to 3415. A proposed schedule for the project should be made publicly available at should include measures to mitigate the disruption that is expected for a project of such scale.

The developers responsible for 3407 should preserve maintain and fully respect the existing servitudes over the property at 3407 and in particular those servitudes benefiting 3415. Of note 3415 has access to interior parking and to its fire escape from the laneway existing on the property at 3407. Undisturbed access to the laneway should be maintained throughout the project and any disruptions expected should be communicated to 3415 at the earliest possible time. Further the lane way at 3407 is currently only finished with gravel and a final proposal for the finish in stone asphalt, cement or other material should be presented to 3415 for consultation. Additionally 3415 is requesting the inclusion of a proper drainage system for the laneway to collect and transfer the rainfall and snow that accumulates in the laneway and which also is collected from the roofs of the buildings erected at 3415 and 3407. 3415 has already prepared a drain for a certain accumulation of rainfall and snow below the gravel finish and is hereby requesting that a steel grate for the drain as well as a suitable collector basin be included in any construction affecting the laneway.

As insufficient information concerning the construction schedule is available at the time of drafting of this report no solutions can be proposed at this time. It would be appreciated and expected as a matter of courtesy and not merely as an obligation that 3407 provide detailed information as it becomes available.

Primary Recommendations

Apart from the comprehensive solutions proposed in this report if the following two recommendations if undertaken should address the primary factors contained in the Concerns and Issues.


- 1. Limit the height of the new structure to the height of the existing structure;**
- 2. Close Avenue du Musée at Sherbrooke Street and allow for two-way traffic on Avenue du Musée.**

3415 AVENUE DU MUSEE INC AND THE AUTHOR OF THIS REPORT PREPARE AND PRESENT THE CONTENTS OF THIS REPORT WITHOUT PREJUDICE TO ANY FUTURE RIGHT OR RECOURSE AND RESERVE THE RIGHT TO RAISE ADDITIONAL ISSUES OR CONCERNS, ADDITIONAL RECOMMENDATIONS AND SOLUTIONS AS WELL AS THE RIGHT TO AMEND RETRACT OR FURTHER ALTER THE OPINIONS EXPRESSED IN THIS REPORT. THE OPINIONS EXPRESSED IN THIS REPORT ARE REPRESENTATIVE OF THE DATE OF DRAFTING, APRIL 30, 2007 AND ARE THEREFORE SUBJECT TO CHANGE AND ARE PREPARED FOR THE SOLE PURPOSE OF PRESENTATION AT THE PUBLIC CONSULTATION SCHEDULED FOR MAY 8, 2007. ANY OTHER USE REPRODUCTION OR REFERENCE TO THIS REPORT SHALL NOT BE MADE WITHOUT THE EXPRESS WRITTEN CONSENT OF 3415 AVENUE DU MUSEE INC.



"Yufe, Richard"
2007-05-10 15:26

A <ldoray@ville.montreal.qc.ca>
cc <estellebeaudry@ville.montreal.qc.ca>
ccc
Objet 3407 Avenue Du Musée - Musée des beaux Arts -
SERVITUDES

Historique :  Ce message a été transmis.

M. Doray,

Please find attached a pdf file containing the plan in regard to a Certificate of Location for the immovable and land at 3415 Avenue du Musée. The plan and report were completed in 2004. 3415 Avenue du Musée the immediate neighbour of 3407 and 3407A, namely the E&A Church that is the proposed site of the MBAM expansion and development.

The property at civic address 3415 Avenue du Musée benefits from the following servitudes:

- * # 124129
- * # 124130
- * # 124523
- * # 143333

These servitudes provide several rights over the property described as 3407 and 3407A including:

- * Rights of passage
- * Rights of non construction
- * Servitude of view
- * Servitude of light

In particular the servitudes of view and of light state the following:

"a right of view or right of light shall exist in favour of the said north west portions of said lots numbers 1749 and 1750, a servitude for that purpose being hereby created in favour of said last mentioned portions of lots"

As discussed in our telephone conversation this information was requested by Me Hélène Lauzon at the Public Consultation held May 8, 2007. Please provide this information to Me Lauzon and have it inserted in the dossier relating to the Public Consultation of the proposed development of 3407 and 3407A Avenue du Musée.

Should you have any further questions or should you require any further information please do not hesitate to contact me.

Thank you

Richard Yufe

<<3415 du musee (certificate location).pdf>>

Richard B. Yufe



- 3415 du musee (certificate location).pdf

1 340 991

