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**INTEGRITY COMMISSIONER REPORT  
MUNICIPAL CONFLICT OF INTEREST ACT APPLICATIONS  
2024-01, 2024-02 & 2024-03**

**THE CORPORATION OF THE CITY OF WOODSTOCK**

**Aird & Berlis LLP**

**John Mascarin**

March 25, 2025

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**INTEGRITY COMMISSIONER REPORT  
APPLICATIONS 2024-01, 2024-02 and 2024-03  
COUNCILLOR KATE LEATHERBARROW**

**A. INTRODUCTION**

1. Aird & Berlis LLP is the appointed Integrity Commissioner for The Corporation of the City of Woodstock (the “**Town**”).
2. Three applications made pursuant to subsection 223.4.1(2) of the *Municipal Act, 2001*<sup>1</sup> were filed directly with our office (collectively, the “**Applications**”).
3. Each Application alleges that Councillor Kate Leatherbarrow (the “**Councillor**”) contravened various provisions of the *Municipal Conflict of Interest Act*<sup>2</sup> by failing to declare a pecuniary interest in, and voting on, matters in which she had a pecuniary interest, and in attempting to influence city staff on a matter in which she had a pecuniary interest.
4. The Applications assert that the Councillor had a pecuniary interest in two matters that were considered by Council because she operates a business in downtown Woodstock that is located within or in close proximity to a land use planning application and certain streetscape improvements that were dealt with by Council. The Applications contend that the Councillor failed to disclose her pecuniary interests and participated in the decision-making process in both matters and that she failed to file requisite written statement of her pecuniary interests.
5. Subsection 223.4.1(2) of the *Municipal Act, 2001* permits an elector or a person demonstrably acting in the public interest to apply to the Integrity Commissioner for an inquiry to be carried out concerning an alleged contravention of section 5, 5.1, 5.2 or 5.3 of the *Municipal Conflict of Interest Act*.
6. Upon completion of an inquiry, the Integrity Commissioner may, if he or she considers it appropriate, apply to a judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether a member has contravened the statute and the possible imposition of penalties.
7. Subsubsection 223.4.1(17) *Municipal Act, 2001* provides that the Integrity Commissioner shall publish written reasons for the decision. This Report contains our decision regarding our inquiry into the Applications and is issued pursuant to the said requirements of the *Municipal Act, 2001*.
8. It is our view that the requirement of publication in subsection 223.4.1(17) is satisfied by including this report in the agenda materials for an open meeting of Council.

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<sup>1</sup> *Municipal Act, 2001*, S.O. 2001, c. 25.

<sup>2</sup> *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50.

## **B. APPOINTMENT AND AUTHORITY**

9. Aird & Berlis LLP was appointed as Integrity Commissioner for the City pursuant to subsection 223.3(1) of the *Municipal Act, 2001* effective November 3, 2024. Council assigned to us all of the functions set out in subsection 223.3(1) of the *Municipal Act, 2001*.

10. As Integrity Commissioner we have authority to consider the application of sections 5, 5.1, 5.2 and 5.3 of the *Municipal Conflict of Interest Act* to members of Council and the City's local boards and to receive applications filed pursuant to 223.4.1 of the *Municipal Act, 2001*.

## **C. PRELIMINARY MATTERS**

### **(a) Standing to File Application**

11. Pursuant to subsection 223.4.1(2) of the *Municipal Act, 2001*, only an "elector" or a "person demonstrably acting in the public interest" may file an application to the Integrity Commissioner for an inquiry to be carried out concerning an alleged contravention of the *Municipal Conflict of Interest Act*. We are satisfied that all of the applicants are electors in the City.

### **(b) Time Limit to File Application**

12. Subsection 223.4.1(4) of the *Municipal Act, 2001* requires that an application to the Integrity Commissioner be made within six (6) weeks from the date an applicant becomes aware of the alleged contravention. This provision replicates the time limit set out in subsection 8(2) of the *Municipal Conflict of Interest Act*. The strict time limit is meant to protect elected officials and ensure that applications are brought forward on a timely basis.<sup>3</sup>

13. Each of the three Applications apply to a matter dealt with by Council which occurred beyond a six (6) week period from when the Applications were filed. For the reasons set out below, we have determined that each of the Applications was filed within six (6) weeks of each of the applicants becoming aware of the alleged contraventions and accordingly were properly submitted.

## **D. MUNICIPAL CONFLICT OF INTEREST ACT PROVISIONS AT ISSUE**

14. Collectively, the three Applications contend that the Councillor contravened sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*.

15. Applications 2024-02 and 2024-03 allege that the Councillor contravened sections 5 and 5.1 the *Municipal Conflict of Interest Act* which provides as follows:

### **When present at meeting at which matter considered**

**5 (1)** Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member,

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<sup>3</sup> *Hervey v. Morris*, 2013 ONSC 956, 9 M.P.L.R. (5th) 96 (Ont. S.C.J.).

- (a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;
- (b) shall not take part in the discussion of, or vote on any question in respect of the matter; and
- (c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question.

16. The Councillor is alleged to have failed to declare a pecuniary interest and to have voted on two different matters at two different meetings and to also have failed to file a written statement pursuant to section 5.1:

#### **Written statement re disclosure**

**5.1** At a meeting at which a member discloses an interest under section 5, or as soon as possible afterwards, the member shall file a written statement of the interest and its general nature with the clerk of the municipality or the secretary of the committee or local board, as the case may be.

17. Application 2024-01 alleges that the Councillor contravened section 5.2 of the *Municipal Conflict of Interest Act* and this is also alleged in Application 2024-03:

#### **Influence**

**5.2 (1)** Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter that is being considered by an officer or employee of the municipality or local board, or by a person or body to which the municipality or local board has delegated a power or duty, the member shall not use his or her office in any way to attempt to influence any decision or recommendation that results from consideration of the matter.

### **E. REVIEW OF MATERIALS**

18. In order to undertake our inquiry into the Applications, we have reviewed the following:

- the Applications and materials referred to therein, including attachments;
- the Councillor's submissions to our preliminary findings;
- the agendas for the various meetings of Council;
- the various reports to Council related to the matters being considered; and
- the former Integrity Commissioner's and our own written advice to the Councillor.

19. We have also reviewed, considered and had recourse to such applicable jurisprudence and secondary source materials that we believe to be pertinent to the issues under consideration.

## **F. BACKGROUND**

### **(a) Councillor**

20. The Councillor was elected to her current office as City Councillor in the 2022 Municipal Election. This is her first term as a member of Council.

### **(b) Declaration of Pecuniary Interest**

21. Each of the Applications emanate from two disclosures of pecuniary interest made by the Councillor at a meeting of Council on December 12, 2024. At this meeting, Council considered, *inter alia*, a delegation at Item 8.b – Downtown Woodstock BIA – seeking to maintain Phase 2 of the Dundas Street Revitalization Project (“**Streetscape Project**”) in the 2025 Capital Budget and also a motion at Item 14.a.4 – Adoption of 2025 Capital Budget and 2026-2028 Capital Forecast – to remove the debenture financing of Phase 2 therefrom. The Councillor declared a pecuniary interest on both items.

### **(c) Councillor’s Business**

22. The Councillor operates a business located at 375 Dundas Street – Early Bird Coffee. The Councillor has operated the business from this location with her husband since 2021. They are a tenant of the premises.

### **(d) Dundas Street Revitalization Project**

23. The Streetscape Project is a large-scale, multi-phase construction improvement project related to Dundas Street between Light Street/Brock Street and Wellington Street which is part of the Downtown Development Plan. The Streetscape Project entails seven (7) redevelopment/reconstruction phases (see map in Appendix 1). The Councillor’s business is located in Phase 4 of the project.

24. On March 21, 2024, Council considered a staff report entitled “Downtown Woodstock Streetscape Master Plan Implementation Options” (Item 14.a.3) which pertained to the entire Streetscape Project. Council was requested to provide direction as to the implementation of the plan and Council selected Option 4 – to divide the work into smaller phases so that each phase could be completed within a single construction season, commencing with Phase 1.

### **(e) Allegations**

#### **(i) Application 2024-01**

25. This application alleges that the Councillor breached subsection 5.2(1) of the *Municipal Conflict of Interest Act* as follows:

Councillor owns and operates a business named Early Bird Coffee that is located at 375 Dundas Street in downtown Woodstock which is located in Phase 4 of the aforementioned project and has an estimated (2024) cost of \$2.5 million. Given that the total \$48 million project has a stated goal of attracting more visitors/customers to the core area it as if this municipal expenditure would be of some direct benefit to the business and property owners in the project area.

26. Application 2024-01 was not validly submitted. We wrote to the applicant and advised that they had not properly filed the requisite statutory declaration and had not raised any specific issues with respect to the Councillor's purported influence on City staff.

27. The applicant never formalized Application 2024-01 by submitting the proper executed statutory declaration and accordingly it has now expired. We will not be dealing further with it but have included it in this Report in order to address it and fulfill our obligation under section 223.4.1 of the *Municipal Act, 2001*.

**(ii) Application 2024-02**

28. This application alleges the Councillor breached sections 5 and 5.1 of the *Municipal Conflict of Interest Act* as follows:

Councillor Leatherbarrow did not disclose a pecuniary interest on Item 14.a.3 – Downtown Woodstock Streetscape Master Plan Implementation Options at the meeting of Woodstock City Council on March 21, 2024. In a recent post of social media Councillor Leatherbarrow states that she did not act with “malicious intent”. On November 14<sup>th</sup> and 16<sup>th</sup>, 2023, Councillor Leatherbarrow declared a conflict of interest for a separate business (document attached). On March 21<sup>st</sup>, 2024 Councillor Leatherbarrow did not disclose a pecuniary interest during a Woodstock City Council meeting. On December 12<sup>th</sup>, 2024 Councillor Leatherbarrow declared a pecuniary interest during a Woodstock City Council Meeting. With her vote removed, the first motion under 14.a.4 to remove Project INF00138 – Downtown Revitalization be removed from the 2025 Capital Budget and the 2026- 2029 Capital Forecast was defeated (document attached). By not disclosing a pecuniary interest on March 21<sup>st</sup>, 2024, Councillor Leatherbarrow's vote contributed to the addition of a multimillion dollar item to the City of Woodstock's Budget. By disclosing a pecuniary interest on the same item on December 12<sup>th</sup> 2024 Councillor Leatherbarrow contributed to keeping the same multimillion dollar item on this City of Woodstock's Budget.

29. We note that the latter part of the allegation pertains to the impact that the Councillor's initial non-disclosure of the alleged pecuniary interest has purportedly caused. Because the Councillor voted at the meeting on March 21, 2024 to adopt Option 4, Council proceeded (on a 4-3 vote) to commit to a large financial undertaking. Then, because the Councillor disclosed a pecuniary interest on December 12, 2024, the motion to remove the previously approved project was lost on a 3-3 vote as the Councillor did not, and could not, vote on the motion.

30. Application 2024-02 was properly filed and submitted.

**(iii) Application 2024-03**

31. The third Application asserts that the Councillor contravened sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* as follows:

Councillor Kate Leatherbarrow owns a business at 375 Dundas Street in Woodstock which is in close proximity to the planning application 385-387 Dundas Street Woodstock dealt with May 13, May 16 August 12 and August 15 (resolutions attached). The Business Early Bird Coffee is 2 doors west of said application Councillor Leatherbarrow did not declare a conflict. Councillor Leatherbarrow

declared a conflict at the December 12 council meeting on the streetscape item on the agenda. The zoning application I refer to is in the same area - that is the reason I am questioning should she have declared a conflict on the planning item ..., since she has now declared the conflict on December 12 different application but part of the same area.<sup>4</sup>

32. The land use planning application considered at the various meetings was for a zoning by-law amendment to permit the development of an 8-story, 36 dwelling unit apartment building containing a mix of affordable and market rent units.

33. Application 2024-03 was also properly filed and submitted.

**(f) Former Integrity Commissioner's Written Advice**

34. The Councillor requested advice from the City's former Integrity Commissioner in May 2024. Prior to Council's meetings to consider the planning application, the Councillor wrote to the former Integrity Commissioner advising of the application at 385-387 Dundas Street and that she operated the business at 375 Dundas Street. She did so in accordance with the authority under subsection 223.3(2.1) of the *Municipal Act, 2001*.

35. The former Integrity Commissioner posed three questions to the Councillor to which she responded. He provided written advice to the Councillor that it may be perceived that she would derive a benefit from the location of an apartment building next to her business but concluded that he would consider any potential pecuniary interest to be remote<sup>5</sup> and thus that she did not need to make a declare under the *Municipal Conflict of Interest Act*. The former Integrity Commissioner provided his advice pursuant to subsection 223.3(2.2) of the *Municipal Act, 2001*.

**(g) Our Written Advice to the Councillor**

36. Prior to Council's meeting on December 12, 2024, the Councillor requested our advice as the newly appointed Integrity Commissioner for the City with respect to Phase 2 of the Streetscape Project. The Councillor disclosed that she operates a business at 375 Dundas Street with her husband. She provided us with links to the staff report entitled "Capital Budget – 2025 and Capital Forecast 2026-2029" and a map of the Construction Phases for the Dundas Steet Revitalization Project (Appendix 1). The Councillor's business is located in Phase 4 of the project which is immediately adjacent to Phase 2.

37. We provided written advice to the Councillor indicating that the approval of the budget to allow Phase 2 to proceed would likely have an impact on her business at 375 Dundas Street in the short-term and possibly a longer-term economic benefit. We recommended to her that she declare a pecuniary interest. The Councillor took our advice and declared a pecuniary interest on the budget approval. She did not vote on the motion to remove the project from the 2025 Capital Budget, thus allowing Phase 2 to proceed. This triggered the questions of concern in this Report as to whether she had previously contravened the *Municipal Conflict of Interest Act*.

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<sup>4</sup> Application 2024-03 further explained as follows: "This [land use planning] application is for an affordable housing build which will enhance the area of her business. This area is a very derelict the proposed build will add value to the surrounding properties of which her business is located."

<sup>5</sup> The Former Integrity Commissioner applied the exception for remote or insignificant interests in s. 4(k) of the *Municipal Conflict of Interest Act* (see para. 48 below).



## **(h) Review and Consideration**

38. Subsection 223.4.1(7) of the *Municipal Act, 2001* provides that in considering an application that a member has contravened the *Municipal Conflict of Interest Act*, the Integrity Commissioner “may conduct such inquiry as he or she considers necessary.” We reviewed the City’s Complaint Process as it relates to “Conflict of Interest Complaints” which simply provides that “the Integrity Commissioner will conduct an inquiry and, thereafter, will report to City Council the details and results of such inquiry”.

39. As such, we determined that we had a sufficient evidentiary record to proceed with our review of the Applications based on the disclosures from the Councillor, the information provided in the Applications and the various public records that we were able to access with respect to the various matters considered by Council.

40. The Councillor was provided an opportunity to file submissions with respect to the allegations, which she did. We have considered the Councillor’s correction of a fact in preparing our final report.

## **G. ANALYSIS**

### **(a) Pecuniary Interests**

41. Despite its central importance to the statute, the *Municipal Conflict of Interest Act* does not define the term “pecuniary interest”. However, it is well-accepted that a “pecuniary interest” pertains to any financial interest that is related to or involves money.<sup>6</sup> The jurisprudence has interpreted “pecuniary interest” to include a financial, economic or monetary benefit that will be received or could potentially be received, either in cash or in an increase in the value of some asset, but can also entail the avoidance of a financial or economic loss. A potential pecuniary interest must be real and discernible and not merely speculative or hypothetical.<sup>7</sup>

42. The subject matters at issue in the Applications relate to a planning application and a streetscape improvement project in close vicinity to the location of the business which the Councillor operates. The allegations in the Application essentially assert that the Councillor’s business will derive some form of financial impact from the location of a new apartment building in close proximity as well as some measure of economic impact from Phase 2 of the Streetscape Project that is also in the general geographic area of her business.

### **(b) Obligations of Members**

43. The statutory requirement in section 5 of the *Municipal Conflict of Interest Act* is clear that if a member is present at a meeting at which they have a pecuniary interest, the member is required “prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof.”

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<sup>6</sup> *Mondoux v. Tuchenhagen* (2011), 88 M.P.L.R. (4th) 234 at para. 31 (Ont. Div. Ct.); *Magder v. Ford* (2013), 7 M.P.L.R. (5th) 1 at para. 6 (Ont. Div. Ct.); *Cauchi v. Marai*, 2019 ONSC 497 at para. 33; *Ferri v. Ontario (Attorney General)*, 2015 ONCA 683 at para. 9.

<sup>7</sup> “The pecuniary interest must be definable and real rather than hypothetical”: *Lorello v. Meffe*, 2010 ONSC 1976, 99 M.P.L.R. (4th) 107, at para. 59. “A potential or speculative pecuniary interest is not sufficient”: *Darnley v. Thompson*, 2016 ONSC 7466, at para. 76.

44. Section 5.2 of the statute provides that a “member shall not use his or her office in any way to attempt to influence any decision or recommendation that results from consideration of the matter” by an officer or employee of the City.

45. The Applications essentially allege that the Councillor has a direct pecuniary interest (and presumably a deemed pecuniary interest arising from her husband’s interest in the business) that she did not declare under section 5 of the *Municipal Conflict of Interest Act* and thus that she also failed to file a written statement disclosing her pecuniary interest(s) under section 5.1. None of the Applications provided any assertions of how the Councillor may have contravened subsection 5.2(1) of the statute in using her office to influence the decision or recommendation of an officer or employee of the City.

## H. FINDINGS

46. We have carefully considered the Applications and have made the following findings and determinations based on our assessment of the facts and the law.

47. With respect to the matter of the approval of Phase 2 of the Streetscape Project on December 12, 2024, the Councillor requested and received our written advice and she followed it by declaring a pecuniary interest under section 5 of the *Municipal Conflict of Interest Act*. As noted above, this action precipitated the questions raised in the Applications as to whether she had earlier failed to comply with her obligations under the statute with respect to the rezoning application at 385-387 Dundas Street and the implementation of the Streetscape Project by construction phases.

48. With respect to the planning application, the Councillor had sought and obtained the written advice from the former Integrity Commissioner that he believed any pecuniary interest would be remote pursuant to the exception in clause 4(k) of the *Municipal Conflict of Interest Act*:

### **Where ss. 5, 5.2 and 5.3 do not apply**

**4** Sections 5, 5.2 and 5.3 do not apply to a pecuniary interest in any matter that a member may have,

...

(k) by reason only of an interest of the member which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member.

49. We may agree or disagree with the former Integrity Commissioner’s determination. However, we cannot fault the Councillor for having sought and followed the written advice provided to her. As indicated, the Councillor did not declare a pecuniary interest on the planning application and she did so based on the former Integrity Commissioner’s written advice.

50. With respect to the approval of Item 14.a.3 of the Streetscape Project considered by Council on March 21, 2024, the matter related to the selection of how the project would be implemented. Council decided “to proceed with Option 4 and approve a revision to the 2024 Capital Budget to include \$2,700,000 for Project INF00138 to be financed by debenture.”

51. Council had been asked to consider various implementation options with respect to the *entire* Streetscape Project. As noted, this project is a large undertaking which encompasses many properties and impacts a significant number of owners.

52. The selection of Option 4 allowed the development of Phase 1 of the Streetscape Project, related to work on Dundas Street between Riddell Street and Wellington Street, to proceed.<sup>8</sup> The Councillor's business is not located in Phase 1 nor is Phase 1 adjacent to Phase 4. It is located some distance away from the Councillor's business. In our view, there is no close geographic proximity to the approval provided by Council.

53. There is an exception in clause 4(j) of the *Municipal Conflict of Interest Act* that relates to a member who has an interest in common with other electors:

### Exceptions

#### Where ss. 5, 5.2 and 5.3 do not apply

4 Sections 5, 5.2 and 5.3 do not apply to a pecuniary interest in any matter that a member may have,

...

- (j) by reason of the member having a pecuniary interest which is an interest in common with electors generally

54. The term "interest in common with electors generally" does not necessarily mean an interest that is shared by every other elector in the municipality. The term is defined in section 1:

"interest in common with electors generally" means a pecuniary interest in common with the electors within the area of jurisdiction and, where the matter under consideration affects only part of the area of jurisdiction, means a pecuniary interest in common with the electors within that part;

55. The Ontario Divisional Court has held that, "It is not the nature of the interest, but the breadth of those who share the interest which defines whether s. 4(j) of the *Municipal Conflict of Interest Act* applies."<sup>9</sup> Moreover, the Ontario courts have determined that an interest in common with electors generally may exist when there is a significant number of electors within the geographic area, class or order.<sup>10</sup>

56. In our view, the consideration Council was giving to the various options relating to the implementation of entire Streetscape Plan on March 21, 2024 was materially different from the motion that Council was asked to consider on December 12, 2024 which provided as follows:

That Project INF00138 - Downtown Revitalization being financed from debenture be removed from the 2025 Capital Budget and the 2026-2029 Capital Forecast.

57. The motion would have precluded Phase 2 from proceeding. Phase 2 is immediately adjacent to Phase 4 where the Councillor's business is located. Together Phases 2 and 4 constitute a much smaller geographic area than the entire area of the Streetscape Project. Accordingly, the exception for an interest in common with electors generally under clause 4(j) may not be applicable to the matter that was considered on December 12, 2024.

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<sup>8</sup> Administrative Services Report, "Downtown Woodstock Streetscape Master Plan Implementation Options" dated March 21, 2024 at page 3.

<sup>9</sup> *Tuchenhausen v. Mondoux*, 2011 ONSC 5398 at para. 43.

<sup>10</sup> *Biffis v. Sainsbury*, 2018 ONSC 3531 at para. 14 and *Re Ennismore (Township)* (1996), 31 M.P.L.R. (2d) 1 (Ont. Gen. Div.) at paras.15-19.

58. Accordingly, it is our determination that the exception in clause 4(j) applied to the Councillor on March 21, 2024 because of the breadth of the geographic area and the class of owners affected.<sup>11</sup> However, the exception it did not apply to the Councillor on December 12, 2024 as the motion to remove debenture financing from the 2025 Capital Budget related to a much smaller geographic area and number of owners. It is for this reason that we recommended that the Councillor declare a pecuniary interest on the motion at that meeting. It is our opinion that the Councillor did not have to declare a pecuniary interest on March 21, 2024.

59. Accordingly, it is our finding that the Councillor did not contravene the *Municipal Conflict of Interest Act* in not declaring a pecuniary interest and in taking part in the decision-making process and voting on the matters of the planning application and the options for implementation of the Streetscape Project.

## I. CONCLUSIONS

60. Subsection 223.4.1(15) of the *Municipal Act, 2001* provides that, upon completion of an inquiry, the Integrity Commissioner may, if the Integrity Commissioner considers it appropriate, apply to a judge under section 8 of the *Municipal Conflict of Interest Act* for a determination of whether the member or members have contravened section 5, 5.1, 5.2 or 5.3 of the statute:

### Completion

**223.4.1** (15) Upon completion of the inquiry, the Commissioner may, if he or she considers it appropriate, apply to a judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the member has contravened section 5, 5.1, 5.2 or 5.3 of that Act.

61. Unlike an investigation report related to an alleged contravention of a code of conduct where the Integrity Commissioner reports its opinion on the matter and Council may need to make a decision on the imposition of any penalties or remedial measures/corrective actions that may be recommended, the decision-making power under section 223.4.1 of the *Municipal Act, 2001* resides solely with the Integrity Commissioner. Council is advised of the Integrity Commissioner's decision and it receives the report for information – Council is not asked, nor is it empowered, to make a decision on whether a matter will be brought before a judge.

62. We have concluded that the Councillor did not contravene her obligations of disclosure and recusal from participation and voting as set out in section 5 of the *Municipal Conflict of Interest Act*. She therefore did not have to file a written statement under section 5.1. Moreover, there was no evidence presented in any of the Applications that she sought to use her office to influence a decision or recommendation by City staff.

63. We also note that the *Municipal Act, 2001* was amended in 2018<sup>12</sup> to provide that a member of Council is expressly permitted to request the written advice of the Integrity Commissioner. It is our view that if a member requests such advice and then follows the advice provided, the member should be entitled to rely fully on the Integrity Commissioner's advice. To hold otherwise would put members in jeopardy and be counter to the risk that the statute sought to prevent by assigning the advice-giving function to Integrity Commissioners.

<sup>11</sup> *Tuchenhagen v. Mondoux*, 2011 ONSC 5398 at para. 23 and *City of Elliot Lake (Integrity Commissioner) v. Patrie* (2023), 40 M.P.L.R. (6th) 254 (Ont. S.C.J.) at para. 235

<sup>12</sup> *Modernizing Ontario's Municipal Legislation Act, 2017*, S.O. 2017, c. 10, Sched. 1, s. 19(1).

64. This is recognized in subsection 9(2) of the *Municipal Conflict of Interest Act* where a judge, in exercising their discretion to impose any penalties on a member for a contravention of the statute, may consider the following:

**Same**

9 (2) In exercising his or her discretion under subsection (1) the judge may consider, among other matters, whether the member or former member,

- (a) took reasonable measures to prevent the contravention;
- (b) disclosed the pecuniary interest and all relevant facts known to him or her to an Integrity Commissioner in a request for advice from the Commissioner under the *Municipal Act, 2001* or the *City of Toronto Act, 2006* and acted in accordance with the advice, if any, provided to the member by the Commissioner; or
- (c) committed the contravention through inadvertence or by reason of an error in judgment made in good faith. (emphasis added)

65. Based on our determination that the Councillor did not have to declare pecuniary interests as alleged in the Applications and that she did not contravened the statute, we will not be filing an application to a judge of the Ontario Superior Court of Justice pursuant to subsection 223.4.1(15) of the *Municipal Act, 2001* under section 8 of the *Municipal Conflict of Interest Act* for a determination of whether the Councillor has contravened the statute.

66. As noted above, Council has no role in this determination. Council cannot direct us to make an application to the Court nor can it seek to impose a penalty or sanction. We do note that if any of the applicants wish to do so, they may make an application directly to the court under subsection 8(3) of the *Municipal Conflict of Interest Act* within six (6) weeks of our advisement pursuant to subsection 223.4.1(16) of the *Municipal Act, 2001*.

67. We would be remiss if we failed to note that, in dealing with these Applications and the number of requests for written advice that we have received from members of Council, it appears that Council may not have received comprehensive training on the *Municipal Conflict of Interest Act*. We accordingly recommend that all members of Council should attend an education and training session on the *Municipal Conflict of Interest Act*.

68. Moreover, in view of the questions that we have received from members of the public on the *Municipal Conflict of Interest Act*, such a training session, if conducted in an open meeting, could be of great benefit to the public to also educate them on this often misunderstood statute.

69. The provision of educational information to members of Council, the City and the public about the *Municipal Conflict of Interest Act* is one of the core functions of the Integrity Commissioner.<sup>13</sup>

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<sup>13</sup> See s. 223.3(1) of the *Municipal Act, 2001*:

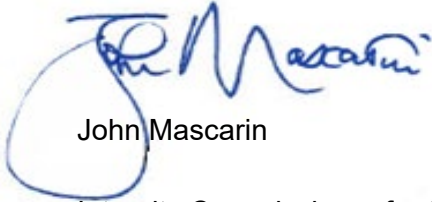
7. The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act*.

70. As required by subsection 223.4.1(16) of the *Municipal Act, 2001*, on March 25, 2025 we provided written notice to each of the applicants who filed the Applications that we will not be making an application to a judge. We have also provided notice to the Councillor.

71. We recommend that a copy of our written reasons in this Report be posted by the City on its website.

Respectfully submitted,

AIRD & BERLIS LLP



John Mascarini

Integrity Commissioner for the City of Woodstock

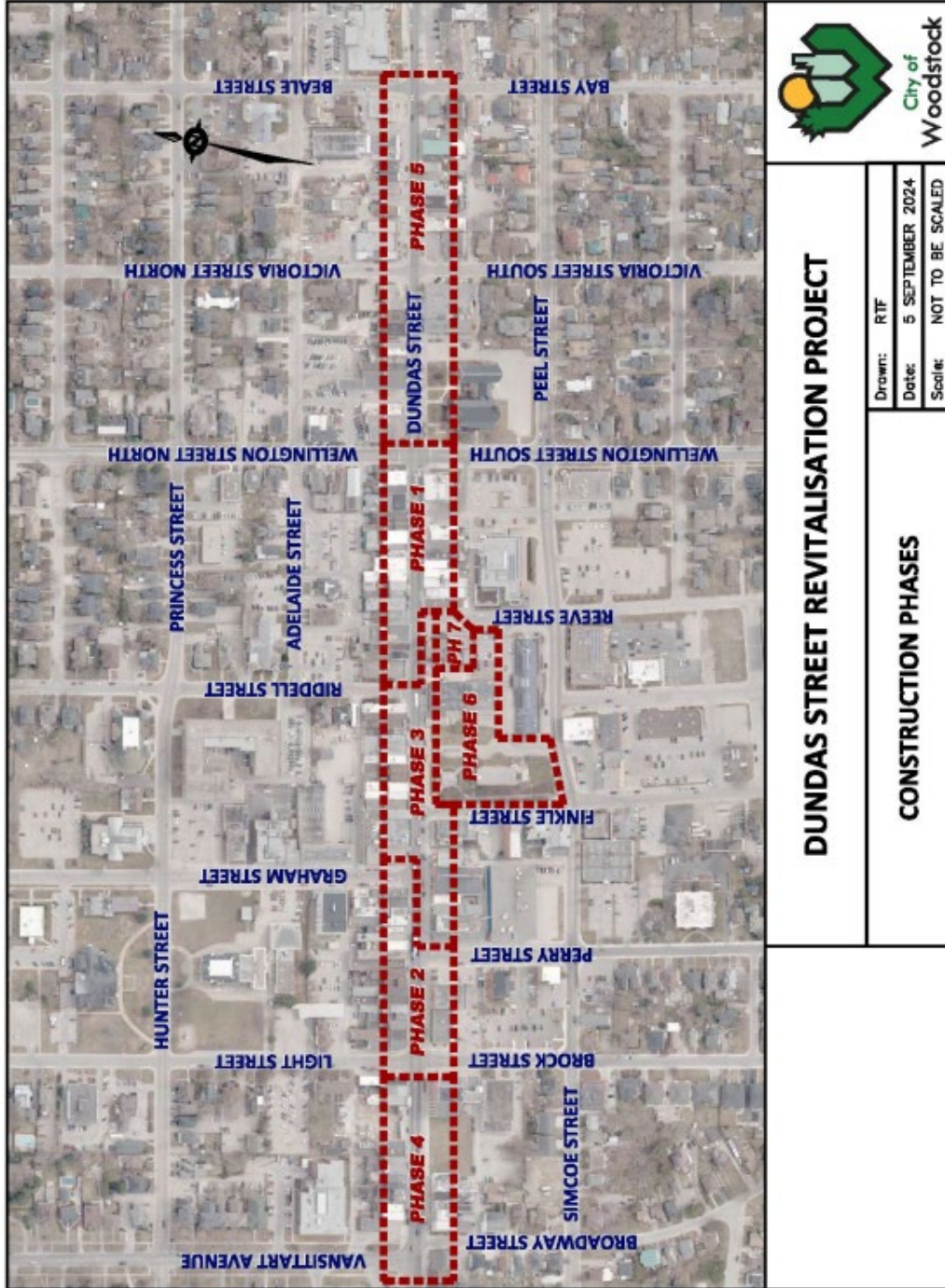
Dated the 25<sup>th</sup> day of March, 2025

JM/km

Appendix

### APPENDIX 1

## DUNDAS STREET REVITALIZATION PROJECT CONSTRUCTION PHASES



63608151.2

