

DATE: MARCH 15, 2013

TO: HONOURABLE MAYOR & MEMBERS OF COUNCIL

FROM: GRANT UYEYAMA, DIRECTOR OF DEVELOPMENT PLANNING

RE: COMMUNICATION FROM MR. JOEL GINSBERG FOR
COUNCIL MEETING, MARCH 19, 2013
CONCERNING PROPOSED BY-LAW 24-2013

C 18
Item # By-laws
No. 024-2013

Council - MARCH 19/13

ITEM #18, OF REPORT NO 39 OF THE
COMMITTEE OF THE WHOLE – OCTOBER 30, 2012
ZONING BY-LAW AMENDMENT FILE Z.12.013
31 & 33 WIGSTON PLACE
W. MARTIN, S. HOWIESON, R. STEVENS,
J. LEGRANDEUR, G. WIGSTON (OWNERS)
WARD 5 – VICINITY OF BATHURST STREET AND HIGHWAY 407

Recommendation

The Commissioner of Planning recommends:

1. THAT this Communication memorandum be received as information.

Background

The above-noted application was considered by the Committee of the Whole on October 16, 2012 and the following was resolved:

1. "THAT Zoning By-law Amendment File Z.12.013 (W. Martin, S. Howieson, R. Stevens, J. LaGranduer, and G. Wigston) BE APPROVED, specifically to amend Zoning By-law 1-88, to rezone the subject lands shown on Attachments #1 and #2 from R1V Old Village Residential Zone (minimum 30m lot frontage) and OS1 Open Space Conservation Zone subject to Exception 9(941) to R1 Residential Zone (minimum 18m lot frontage) and OS1 Open Space Conservation Zone (valley) in the manner shown on Attachment #3, subject to the following condition:
 - i) that prior to the enactment of the implementing zoning by-law, the Owner shall carry out an Archaeological Assessment of the entire property to the satisfaction of the Vaughan Cultural Services Division.
2. THAT the lands zoned OS1 Open Space Conservation Zone (including the 10 m buffer) as shown on Attachment #3, be dedicated as open space valleyland to the Toronto and Region Conservation Authority as a condition of any future lot creation."

On March 14, 2013, a Communication was received from Mr. J. Ginsberg regarding the proposed implementing Zoning By-law scheduled to be enacted by Council on March 19, 2013. The following issues were raised in Mr. Ginsberg's March 13, 2013 letter and are commented on by Development Planning Staff below: (1) Notification of Re-Zoning; (2) Future Lot Creation, (3) Reasons for the Objection.

Issue 1: Notice

The statutory Public Hearing for the Zoning Amendment Application Z.12.013 was held on June 5, 2012. Notice of the meeting was mailed on May 11, 2012 to all property owners within 150m of the subject lands and to anyone on file with the Clerk's Department having requested notification of the development application. Notice was sent to the registered owner of 71 Wigston Place (Michelle Lodge). Mr. Ginsberg was not the registered owner at that time and had not advised the Clerk's Office of his request to receive notification of development matters relating to the subject property.

The Zoning Amendment Application was processed by the Development Planning Department. The Development Planning Department sends complimentary notification of matters to be considered by the Committee of the Whole, where such notice has been requested. No complimentary notice of this matter was mailed to Mr. Ginsberg for the reason that he did not request such notice and he had not provided his address information to the City. The Report of the Commissioner of Planning was considered by the Committee of the Whole on October 16, 2012 and Council ratified the minutes of that meeting on October 30, 2012.

Following the June 5, 2012 Public Hearing, Mr. Ginsberg inquired about the status of the subject Zoning Amendment Application several times, however, Mr. Ginsberg did not provide the Development Planning Department or the Clerk's Department with his contact information until December 14, 2012. On March 8, 2013, the Development Planning Department notified Mr. Ginsberg by telephone that the implementing Zoning By-law is scheduled to be enacted by Council on March 19, 2013, and the Notice of Passing by the Clerk's Department will be sent to him following Council's enactment of the By-law, in accordance with the requirements of the Planning Act.

The Development Planning Department is of the opinion that proper notification has been given on this development application in accordance with the requirements of the Planning Act and the City's Public Notification of Planning Applications Policy.

Issue 2: Lot Creation by Severance

Mr. Ginsberg is concerned that following the adoption of the Zoning By-law, the Owners will file an application for future lot creation of the subject lands through the Consent process rather than the Subdivision process.

OPA 94 (Consent Policies of the Official Plan) permits lot creation through the Consent process where there is no requirement for an extension of a municipal road or municipal services to the property. Wigston Place is an existing road with municipal services. There is existing residential development on either side of the subject lands, including Mr. Ginsberg's current residence which is adjacent to the subject property. On this basis, the City's Official Plan policies do not require a subdivision application to address this development scenario, which could proceed by way of the Consent process through the Committee of Adjustment.

Issue 3: Mr. Ginsberg's Reasons for Objecting to Zoning Amendment Application Z.12.013

A. Archaeological Report

Mr. Ginsberg contends that the Archaeological analysis and report for the site is inadequate. Prior to the enactment of the Zoning By-law, the City required an Archaeological Assessment to be approved. An assessment was done by the applicant's qualified professional consultant and the report was reviewed to the satisfaction of Vaughan's Cultural Services Division. No cultural heritage issues were identified by the report and it was entered into the Ontario Public Register of Archaeological reports by the Ministry of Tourism, Culture and Sport on January 7, 2013. Council should note that the property subject of this application, is currently occupied by two residential dwellings.

B. TRCA Approval

Mr. Ginsberg contends that the TRCA's review of the site failed to recognize two river valleys of the East Don River traversing through the property. The TRCA reviewed this Zoning Amendment Application Z.12.013 and provided comments to the City in a letter dated June 4, 2012 indicating no concerns with the lands to be zoned R1 Residential Zone. The TRCA requested that the northerly portion of the lands, including a 10m buffer along the top of bank, remain zoned OS1 Open Space Conservation Zone, and that these lands be placed into public ownership to provide protection of the valleylands. The dedication of the OS1 Open Space Conservation Zone lands to the TRCA will be executed as a condition of the upcoming lot creation approval process.

C. Topography of Site

Mr. Ginsberg contends the topography of the site is not suitable for 5 residential lots and the number of lots should be reduced to allow for the preservation of a river valley. As noted above, the TRCA's review of this application identified appropriate lands to be zoned OS1 Open Space Conservation Zone and the tablelands to be zoned R1 Residential Zone to be developed with residential lots. When the future lot creation application is submitted, it will be reviewed by the City and TRCA and any conditions of approval must be addressed and cleared by the applicant, to the satisfaction of the City and TRCA, prior to final approval and registration of the future lots.

D. Valley Land Protection

Mr. Ginsberg's letter requests the preservation of valleylands to allow for deer to graze. As discussed above, the subject lands consist of a valleyland area and a tableland area. The northerly part of the site containing the valleylands will remain zoned OS1 Open Space Conservation Zone and will be placed into the TRCA's ownership, which will provide the requested protection. The southerly portion of the subject lands which is outside the 10m buffer, and measured from the TRCA staked top-of bank, is tableland and is already developed with two residential dwellings, one which is proposed to be demolished for a future infill development of residential lots (5 potential lots), consistent with the existing lotting to the west, including Mr. Ginsberg's property.

E. Signage for the date of the Public Hearing or Committee of Adjustment Meeting

Mr. Ginsberg indicated that the signage for the Zoning By-law Amendment Application on the property did not provide adequate information regarding the date of the meeting, whereas the Development Planning Department is satisfied that the notice sign on the property is as required by the City and the Planning Act, and is not required to include a meeting date.

Mr. Ginsberg also indicated that improper signage for Consent Applications B039/11 and B040/11 to be heard by the Committee of Adjustment was placed at 31 and 33 Wigston Place. The Secretary-Treasurer to the Committee of Adjustment has confirmed that proper signage, with the correct meeting date, was installed at both properties on January 21, 2013, and satisfied the requirements of the City and the Planning Act.

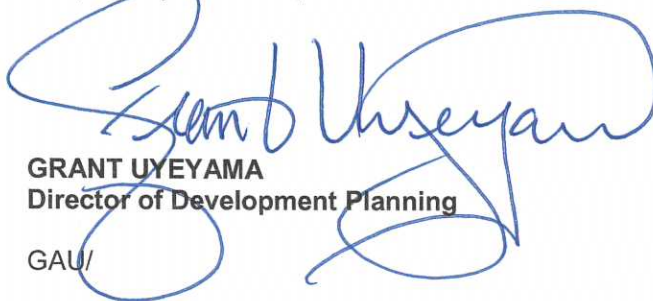
F. Rights Under the Planning Act and Written Notice of Future Matters/Decisions

Through his letter to the Clerk, Mr. Ginsberg's intention is to preserve his right for party status under any Ontario Municipal Board Hearing concerning an appeal of a Zoning By-law for the subject lands. Mr. Ginsberg may choose to appeal the By-law following the enactment by Council and he may choose to consult with his own Legal Counsel concerning his rights to such an appeal.

Summary

The Development Planning Department has processed this Zoning Amendment application in accordance with the requirements of the Planning Act and according to the City's policies and procedures. Mr. Ginsberg did not attend the June 5, 2012 Public Hearing to address Council or attend the October 16, 2012 Committee of the Whole meeting to make his views known to Council, as he (or his wife) was not the registered owner at the time of the Public Hearing and did not provide any contact information to notify him for the Committee of the Whole meeting. The Development Planning Department is satisfied that a complete review of the approved rezoning application has been undertaken by City Departments and external public agencies. Accordingly, the Development Planning Department is satisfied that the implementing Zoning By-law 24-2013 can be enacted by Council at the meeting on March 19, 2013.

Respectfully submitted,



GRANT UYEYAMA
Director of Development Planning

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Copy to: Clayton Harris, City Manager
Jeffrey A. Abrams, City Clerk
John Mackenzie, Commissioner of Planning