

Our File/N/Réf.                    23-00-99-0005  
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DATE                                    29 June 1999

TO/DEST.                            Chair and Members of Regional Council

FROM/EXP.                          Planning and Development Approvals Commissioner

SUBJECT/OBJET                    **APPEALS OF RESIDENTIAL PROVISIONS OF CITY OF  
OTTAWA ZONING BY-LAW 93-98**

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**This Report is for information only.**

PURPOSE

The purpose of this memorandum is to inform Council of action taken by Regional Planning and Legal staff with respect to certain appeals of the residential provisions of the City of Ottawa zoning by-law 93-98, the City's new comprehensive zoning by-law, also referred to as 2020Z. Some appeals of the residential provisions of Bylaw 93-98 cited lack of Regional Official Plan conformity as a ground for their appeal. In February 1999, Legal staff requested party status for the Region to these appeals. Based on subsequent analysis conducted by staff and consultants for the Region and changes to the By-law approved by Ottawa City Council, Planning staff advise that the Region does not need to maintain its party status with respect to these appeals (unless there are appeals to the amending by-law intended to address some of the Region's concerns).

HISTORY

City Council adopted the new zoning by-law, 93-98, on 20 May 1998. Regional staff had provided comments to the City (staff and Committee) on various drafts of the new by-law. Staff filed appeals of the new by-law, where issues raised in previous comments had not been resolved. These appeals were reported to Planning and Environment Committee at its meeting of 13 Oct 98 in a Summary of Assigned Functions report. At that time, appeals of the residential provisions of By-law 93-98 were not included.

Information Previously Distributed  
To be listed on Planning and Environment  
Committee's Agenda of 13 July 1999

The staff comments to the City had included the following:

Like the City's Official Plan, the new Regional Official Plan is pro-active in facilitating more development in already serviced areas and in encouraging the construction of more units inside the Greenbelt. We have not undertaken the onerous task of looking through each zone and potential impact to determine if the proposed By-law is also pro-active in this regard. Our review focused mainly on opportunities for mixed-use and higher density development around rapid transit stations and issues of conformity. We do however trust that the spirit of the City of Ottawa and the Region's Official Plans is being implemented and that a balance will be reached between creating opportunities for more units and ensuring the compatibility of new development with the character of existing neighbourhoods.

During the appeal period a number of other parties filed appeals of various residential provisions of the by-law. Many of these appeals contained an argument that the provisions being appealed did not conform with the requirements of the 1997 Regional Official Plan or similar phrases. At the first pre-hearing in November 1998, the City indicated that they had done some work on the impact of the new zoning by-law on unit potential and on the intensification policies of the City and Regional Official Plans, which they would provide to the appellants before the next pre-hearing in February. The City subsequently advised that they were unable to locate such an analysis. Consequently, Regional staff requested party status to those appeals of the general residential provisions of By-law 93-98 which had cited lack of Regional Official Plan conformity as a ground for appeal. (The Region did not request party status to any site-specific appeals.) The City did not oppose this request and the Board granted the Region party status.

At the same pre-hearing, Regional staff opposed the coming into effect of the R3, R4, R5, R6, CN and CG zones, because it was possible that these new multi-unit zones might not achieve the same unit potential as the previous by-law and therefore might not conform to the Regional Development Strategy of the 1997 Regional Official Plan, which targets a substantial increase in dwelling units inside the Greenbelt. The OMB Chair agreed to provide the Region time to evaluate the impact of the new by-law on unit potential and to prepare a motion on this matter to be presented by 15 March 99.

The Region then retained FoTenn Consultants Inc. to conduct an assessment of the provisions (e.g., side and rear yard setbacks, amenity area requirements) governing multi-unit zones in By-law 93-98 to determine if the impact of these provisions was to reduce development potential to the extent that there was an issue with respect to conformity with the Regional Development Strategy. FoTenn was retained because one of the main work items was to assess the implications of the analysis, in relation to the February 1997 report, *An Identification of Housing Potential Inside the Greenbelt*. The 1997 report was also prepared by FoTenn.

The results of the second analysis by FoTenn are documented in a report entitled, *An Assessment of Multi-Unit Zones on Residential Development Potential in the City of Ottawa*. This report is on file with the Regional Clerk. It concluded that overall unit potential was not jeopardized by By-law 93-98.

It did however note a reduction in potential under the provisions of the R5 and R6 multi-zones and a particular impact in the inner urban area, the neighbourhoods which surround the Central Area. Potential in these neighbourhoods was also affected by some changes in height limits in Centretown and changes in the zoning of portions of inner urban neighbourhoods (Centretown, Dalhousie and Sandy Hill) which removed apartments as a permitted use. On this basis, the Region withdrew its

opposition to the identified zones coming into effect, but maintained its party status with respect to the general provisions governing the R5 and R6 zones (found in Part IV, Residential Regulations of the by-law) and the changes in zoning for the inner urban area.

The City, in order to resolve the residential appeals, commissioned a review of the appeals of general provisions by the firms of Markson Borooah Hodgson Architects Inc. and The Planning Partnership. A draft copy of this work was available in December 1998 and a final report in late April 1999. The Planning and Development Approvals Department hired the firm of Katz Webster Clancey Associates Architects Inc. (KWC) to assess the impact of the changes to general residential provisions recommended by the Planning Partnership report on development potential in the R5 and R6 zones. The report by KWC is also on file with the Regional Clerk. KWC concluded that with the changes recommended by the Planning Partnership, there was no longer a reduction in unit potential compared to the previous by-law, Z2-K, in almost all the sites modelled.

Staff meanwhile pursued further investigation of the changes in height limits in Centretown and the removal of apartments as a permitted use in portions of Hintonburg, Dalhousie and Sandy Hill. These zoning changes were evaluated in the context of the policies in both the Regional and City Official Plans concerning opportunities for infill and redevelopment, land use compatibility and heritage preservation. Heritage concerns were identified through examination of heritage overlays in the zoning and of the *Centretown Heritage Conservation District Study*. Staff also met with representatives of the affected neighbourhoods and took a tour of portions of Hintonburg and Dalhousie.

The approved Ottawa Official Plan directs major residential development to locations near transitway stations or selected locations along arterial roads relatively isolated from existing low profile, ground-oriented housing (and to some other locations not relevant to Centretown or the other inner urban neighbourhoods). Moderate residential development may occur along arterial or major collector roadways; on vacant or underutilized sites already built at moderate intensities; or adjacent to areas with several existing community services and neighbourhood conveniences. The Regional Official Plan directs infill and redevelopment to locations along or adjacent to roads with all-day, frequent transit services, and to rapid transit stations. There is a specific objective in the Regional Development Strategy to encourage new housing in the Inner Area.

In Centretown, the issue was that although an R5 zoning, which permits low-rise apartments (defined as up to four stories) had been maintained, the height limit had been reduced to 10.7 metres, which generally permits only three and a half stories, from 13.5 or 18.3 metres. It was discovered that the changes in height limits had been appealed only south of Gladstone. Based on the official plan policies presented above, staff focused on the impact of the re-zoning on properties along Bronson, Bank and Elgin. Bank Street is not affected; it has a commercial zoning. Heritage concerns were identified along portions of the remaining streets. The result was that such a small number of sites remained that the difference between three and a half versus four stories cannot be argued to have a significant impact on overall unit development potential.

Substantial portions of Sandy Hill, Dalhousie and Hintonburg were re-zoned from R5 under Z2-K, which permitted apartments, to R4 under 93-98, which permits stacked townhouses, but not low-rise apartments. Most of the rezonings were not along arterial or collector roads or transit routes. Somerset-Wellington has a commercial zoning and is not affected by the re-zonings. In this instance as

well, the number of sites where an argument of non-conformity with the Regional Official Plan might be pursued was too small to argue a significant impact on overall development potential.

Ottawa Planning and Economic Development Committee and City Council have approved the changes to By-law 93-98 recommended by the Planning Partnership. Based on the work by KWC, this has removed almost all decreases in development potential in R5 and R6 zones from that permitted under the previous zoning by-law. The next step will be for the City to adopt these changes in an amending by-law. Staff intend to inform the City that, subject to any appeals of the amending by-law, the Region does not intend to maintain its party status to the residential appeals.

*Approved by:*

*N. Tunnacliffe, MCIP, RPP*