

REGION OF OTTAWA-CARLETON
RÉGION D'OTTAWA-CARLETON

REPORT
RAPPORT

Our File/N/Réf. Your File/V/Réf.	03 07-99-0119
DATE	28 October 1999
TO/DEST.	Chair and Members, Planning and Environment Committee
FROM/EXP.	Co-ordinator, Planning and Environment Committee
SUBJECT/OBJET	APPEALS OF RESIDENTIAL PROVISIONS OF CITY OF OTTAWA ZONING BY-LAW 93-98

REPORT RECOMMENDATION

That the Commissioner's delegated authority pertaining to financial expenditures for continued participation in this matter be referred back to Planning and Environment Committee to allow for approval and full public participation and discussion.

BACKGROUND

The attached memorandum from the Planning and Development Approvals Commissioner, dated 29 June 1999 was originally distributed to all members of Council as "Information Previously Distributed" and listed as such on the Planning and Environment Committee Agenda of 13 July 1999.

At that meeting, a motion to waive the Rules of Procedure to consider the item as additional business was introduced and approved. The matter was discussed and the Committee approved the following motion:

That Planning and Environment Committee recommend that Council confirm staff's continued participation in the appeal of Ottawa's zoning by-law to protect the Regional interest in ensuring the implementation of the Regional Official Plan, with particular respect to Item #1 of the CCOC appeal.

As well, the Committee approved a motion requesting Council to waive the Rules of Procedure to consider the item at their meeting the next day (14 July 1999). Council, at its meeting of 14 July 1999 agreed to suspend the Rules of Procedure to consider Planning and Environment Committee Report 37 (this matter was Item 4 on said report) and subsequently approved the above-noted Committee Recommendation (Councillor Meilleur dissented).

At its meeting of 27 October 1999, Council considered the following motion (notice for which was given at the Council meeting of 13 October 1999):

Moved by Councillor M. Meilleur
Seconded by Councillor C. Doucet

WHEREAS RMOC staff were directed to continue participation in the appeal of the City of Ottawa's zoning by-law to protect the Regional interest in ensuring the implementation of the Regional Official Plan, with particular respect to Item # 1 of the CCOC appeal, to the Ontario Municipal Board; and

WHEREAS this motion, carried at Council on July 14th, 1999, is ambiguous in its direction to staff and unclear in its definition of continued participation by the Region; and

WHEREAS there had been extensive public participation in the development of these provisions of the by-law at the City of Ottawa level, particularly by the three affected communities of Hintonburg, Dalhousie and Sandy Hill; and

WHEREAS public participation in this matter at the Regional level was thwarted, allowing no opportunity for residents of these communities to speak to this matter affecting them;

THEREFORE BE IT RESOLVED THAT the Commissioner's delegated authority pertaining to financial expenditures for continued participation in this matter be removed and referred back to Planning and Environment Committee to allow for approval and full public participation and discussion.

Council approved this motion, as amended by the following:

Moved by Councillor D. Holmes
Seconded by Councillor W. Byrne

RESOLVED THAT Motion No. 195 be amended as follows: that the words, "be removed and" be removed from the resolved clause and be substituted with the word "be".

In this regard, the matter is now back before Planning and Environment Committee for their consideration.

In addition to the aforementioned memorandum from the Planning and Development Approvals Commission, I attach for your ease of reference an Extract of Minute of the Planning and Environment Committee meeting of 13 July 1999, an extract from the Centretown Citizens Ottawa Corporation (CCOC) Notice of Appeal, and a copy of a map showing the central area of the City of Ottawa, where the CCOC is looking for support from the Region.

*Approved by
Dawn Whelan*

Our File/N/Réf. 23-00-99-0005
Your File/V/Réf.

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**

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.

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

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9. APPEALS OF RESIDENTIAL PROVISIONS OF CITY OF OTTAWA ZONING BY-LAW 93-98
-Planning and Development Approvals Commissioner's report 29 June 1999

Chair Hunter advised Councillor Holmes had asked (and Councillor Legendre had agreed to move a motion) that this item be moved to the regular agenda for discussion as the matter would be the subject of an Ontario Municipal Board hearing later in the summer.

Councillor Holmes explained the Region was not an appellant but staff had asked for (and received) party status because there was concern about the City of Ottawa down-zoning and how it might affect the Region's ability to bring in the number of housing units needed to meet the goals of the Regional Official Plan (ROP), specifically in the central city wards. In their report, staff are now advising that the Region does not need to maintain its party status and this was of concern to the Councillor.

Moved by J. Legendre

That the Rules of Procedure be waived to consider this item currently listed under the "Information Previously distributed" Section of the Agenda.

CARRIED

Councillor Holmes explained staff initially asked for party status because many of the groups that were appealing the City's by-law, claimed the objectives of the ROP would not be materialized because of the down-zonings and the loss of unit potential in the City of Ottawa. Staff are now advising the Region does not need to take part in the appeals before the OMB because they feel it is not a regionally significant reduction. The Councillor noted Centretown Non-profit Housing Corporation is continuing to appeal because of the down-zonings in Centretown, Dalhousie, Sandy Hill and Hintonberg. In Centretown it has been a height reduction; the zoning has remained the same (R-5 which allows apartments). In the other communities of Sandy Hill, Hintonberg and Dalhousie it has gone from an R-5 to an R-4 which allows only townhouses and stacked townhouses.

Councillor Holmes advised she was asking that the Committee request the Planning and Development Approvals Department to remain with its party status at the OMB to assist mainly the Centretown Non-Profit Housing corporation in

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their appeal of the City of Ottawa's Zoning By-law and the down zoning that has resulted.

At Committee's request, Tim Marc, Manager, Planning and Environment Law noted he had distributed to members of the Committee an extract of the Centretown Ottawa Citizens Association's (COCC) notes of appeal and also a map showing the central area of the City where the CCOC is looking for support from the Region.

Carol Christensen, Senior Project Manager, Land Use, Policy and Planning Branch, stated when staff were considering whether or not to maintain party status with regard to the down-zonings, they examined the areas which had been subject to the down-zonings in the context of both Regional and Local Official Plan policies. She noted the ROP directs infill and redevelopment primarily to areas where there is high frequency transit service and rapid transit stations. The Local Official Plan directs the major development to selected areas along arterials and then moderate plus major collectors. Staff concluded that, with a few exceptions, most of these areas do not fall within the described locations in the ROP and therefore they did not feel the Region could argue a strong case of Regional interest and any issue of ROP conformity.

Committee Chair Hunter opined cutting building heights in half from Elgin to O'Connor, Lisgar to Gilmour, would have a significant effect on the ROP objectives, noting they were based on the FoTenn report which called for a considerable amount of high-rise development. Ms. Christensen noted her comments concerned areas that had been zoned from R-5 to R-4 which meant low rise apartments (up to four stories) which had previously been permitted were no longer permitted. She noted the CCOC had not appealed the changes regarding height limits in Centretown and therefore the Region is not in a position to be party to an appeal on their part in the change of the height limit. She stated there are other appellants who did appeal this but it is not clear whether they will be maintaining their appeals or not. The vast majority of the area where the height limit has been changed, is not under appeal and therefore not in front of the Board. Ms. Christensen advised when the issues of heritage conservation are taken into account for the two to three block area where the height limits are changed, there are not many sites that could be argued are a loss of potential.

Dennis Carr, Centretown Citizens Ottawa Corporation (CCOC) advised CCOC is a private, non-profit housing corporation with a 25 year history of building and managing affordable housing in the central areas of the city. Mr. Carr advised CCOC is not the only appellant to the down-zonings and he said he was

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not aware of any developer to that appeal that has pulled out. He did say however, most of these developers have been satisfied by the amendments recently passed by the City.

Mr. Carr said although these amendments would appear to have satisfied the concerns of Regional staff, he felt they were not correct with respect to the issue of down-zonings. He noted it is a large area and almost the exact area that the City and Regional Official Plans call for intensification, affordable housing, a mix of housing types and tenures, and better use of the existing services. He opined these objectives would be undermined by the down-zonings. Mr. Carr questioned, if these areas are down-zoned, where the compensating up-zonings in the City or the Region would be and also how the Region would achieve its ROP policies.

Committee Chair Hunter advised that Councillor Munter had put forward a motion that Regional staff continue to participate in the appeal of Ottawa's zoning by-law.

Mr. Marc said he understood, from the discussion at the meeting, the meaning of Councillor Munter's motion however, he said it would be of assistance if the motion were more specific and referred to "Item 1 of the CCOC appeal".

Committee Chair Hunter questioned the reason for being so specific and asked why staff would not want to be party to the whole appeal. Mr. Marc noted many parties were looking to the Region for leadership on this issue and the extent to which we stay involved will be a significant factor according to which other parties stay involved. He said there would be no appeal on the entire by-law, unless the Region wants there to be. Mr. Marc noted he had spoken with the solicitors representing the other major developers and they knew this item was before Committee and had chosen not to participate.

Councillor Munter stated he could not understand why the specificity is required, when the Region has already been granted broad party status to the appeal. He said his motion merely confirms the Region's continued participation in the process. Mr. Marc advised the matter is scheduled for a hearing on August 31, 1999; the scope of that hearing will depend on what the appellants are prepared to bring forward and this will depend on what the Region is willing to carry the ball on.

Ms. Christensen added when staff appeared at the pre-hearing and requested party status, they were clear to the Board it was because the issue had been raised and staff needed to investigate further. Staff then commissioned the work by FoTenn, who advised there was not an overall Regional Development Strategy issue in

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terms of unit potential and this has since been communicated to the Board. FoTenn did identify problems with the apartment zones (R-5 and R-6 zones) and the down-zonings. The City commissioned another piece of work by another consultant on the general provisions that govern the R5 and R-6 zones, which the Region had evaluated by Katz, Webster, Clancey and they have concluded the changes in the provisions governing the R-5 and R-6 zones have restored any development potential that was lost under the new by-law. She said while it was perfectly appropriate for the Committee to direct staff to maintain a concern with the down-zonings, it would be very difficult for Mr. Marc to argue on some of these other issues, given the work that has been done to date.

Mr. Carr noted the consultants report done for the City, did not address the issue of down-zonings, nor did the Region's Katz, Webster, Clancey report.

The Committee then considered the following motion.

Moved by A. Munter

That Planning and Environment Committee recommend that Council confirm staff's continued participation in the appeal of Ottawa's zoning by-law to protect the Regional interest in ensuring the implementation of the Regional Official Plan, with particular respect to Item #1 of the CCOC appeal.

CARRIED

Moved by A. Munter

That Council be requested to waive the rules of Procedure to consider this item at its meeting of 14 July 1999.

CARRIED

**Notice of Appeal
The Zoning Bylaw 1998
City of Ottawa Bylaw Number 93-98**

Many provisions and residential zones of Bylaw 93-98 fail to implement the residential land-use policies of the City of Ottawa's Official Plan. Our objections are based on the following key principles and policies of the Official Plan:

- Encourage an efficient use of land, primarily for housing, through sensitive infilling and conversion of existing dwellings to create a more compact form of development;
- Permit affordable housing and a choice of housing types and tenures in all neighbourhoods while maintaining neighbourhood character;
- Establish regulations which will enable rather than preclude infill, conversions and new development on vacant lands.

Specifically, we are appealing the following:

1. Neighbourhood Downzonings.

Large residential areas of Hintonburg, Dalhousie and Sandy Hill have been down zoned to R5 from to R4. These changes eliminate the opportunity to construct apartment buildings in areas where they were previously allowed and will have a major negative impact on redevelopment of existing stock. We are appealing the R4 designations for the following areas:

- a) Neighbourhood Monitoring Area 14 (Dalhousie), sub-areas 1, 2, 3, and 6
- b) Neighbourhood Monitoring Area 9 (West Ottawa) sub-areas 6, 7, 9 and 10.
- c) Neighbourhood Monitoring Area 20 (Sandy Hill), sub-areas 4 and 5.

2. Downzoning of CCOC Properties

We object to the downzoning of the following properties:

- a) 82-84 Putman; previously R4, proposed: R3J,
- b) 212-216 Carruthers; previously R5-X(1.0), proposed: R4D,
- c) 20 Robinson; previously R6-X(1.5), proposed: R5D [181],



FROM R5C
TO R4D

HEIGHT CHANGES ONLY

18.3 m TO 10.7 m

18.3 m TO 13.5 m

13.5 m TO 10.7 m

FROM R5A
TO R4D

FROM R5B
TO R4C

FROM R5D
TO R4D

FROM R5C
TO R4D