

REGION OF OTTAWA-CARLETON
RÉGION D'OTTAWA-CARLETON

REPORT
RAPPORT

Our File/N/Réf. 03 07-00-0119
Your File/V/Réf.

DATE 13 April 2000

TO/DEST. Chair and Members, Planning and Environment Committee

FROM/EXP. Co-ordinator, Planning and Environment Committee

SUBJECT/OBJET **SUMMARY OF ASSIGNED FUNCTIONS: ANNEX VII:
OMB APPEAL SUMMARY REPORT RE: COMPREHENSIVE
ZONING BY-LAW #40-99, TOWNSHIP OF GOULBOURN**

REPORT RECOMMENDATION

That the Planning and Environment Committee recommend that Council sustain Regional staff's appeals 1,2,3,5 and 6 of ZBL 40-99 to the Ontario Municipal Board and withdraw appeal 4.

BACKGROUND

At the Planning and Environment Committee meeting of 11 Apr 2000, the Committee considered a report from the Commissioner, Planning and Development Approvals Department entitled "Summary Of Assigned Functions: Official Plan Amendments, Subdivisions, Condominiums, Part Lot Control By-Laws, Zoning By-Laws, Site Plans And Severances, And Appeals Of Four Zoning By-Laws And One Committee Of Adjustment Decision" and dated 28 Mar 2000. Councillor Betty Hill put forward a motion to defer that portion of the report dealing with the Regional staff appeal of the Township of Goulbourn Comprehensive Zoning By-law 40-99. The Planning and Environment Committee approved Councillor Hill's motion and the staff report, as amended.

Attached is the Appeal Summary Report prepared by staff (Annex VII of the 28 Mar 2000 report). This matter is now before the Committee for your consideration.

*Approved by
Dawn Whelan*

ONTARIO MUNICIPAL BOARD
APPEAL SUMMARY REPORT

Re: Comprehensive Zoning By-law 40-99
Township of Goulbourn

Summary of Appeal

By-law 40-99 is a new Comprehensive Zoning By-law for the Township of Goulbourn which received final reading on January 18, 2000. The Zoning By-law is required to implement the official plan policies of the Township of Goulbourn and the Region of Ottawa-Carleton. The following summarizes the specific issues of the OMB appeal, the reasons why Regional staff are appealing it and the progress to date on resolving the issues of appeal.

1. Jock River Flood Plain - Richmond

The flood plain shown on Schedule A, Map 3 should be amended to correspond to the Regional Official Plan, Schedule G.

Grounds for Appeal

The extent of the flood plain is not shown accurately on Schedule A, Map 3 of the Zoning By-law. This affects existing residential development within the flood plain in the village of Richmond. The zoning does not conform to the Regional Official Plan, section 11.2 and Schedule G nor to the Goulbourn Official Plan, section 10.5.2.

Potential for Resolution

There appears to be limited potential for resolution of this issue as Goulbourn staff acknowledge the residential zoning does not conform the Regional or Goulbourn Official Plan(s). It should be noted that the Rideau Valley Conservation Authority attempted to provide a reasonable solution to this issue whereby the existing residential or commercial zoning would remain in place but with a "flood plain overlay" which would require new construction to be approved by the conservation authority. The final by-law did not provide for any changes to the existing zoning which would have recognized the full extent of the floodplain. The Rideau Valley Conservation Authority is supporting the Region's appeal and would provide expert witness testimony at a future hearing.

2. Organic Soils

A constraint area should be established in the Zoning By-law reflecting the Organic Soils shown in the Regional Official Plan, Schedule G. In addition, a provision should be inserted in the text of the Zoning By-law identifying under which circumstances buildings can be erected on lands within the Organic Soils areas.

Grounds for Appeal

In order to conform to the Regional and Goulbourn Official Plan, the Goulbourn Zoning By-law should identify those lands identified as having organic soils. For such areas, the Zoning By-law should identify the studies/information required in respect of such soils before a building permit will be issued.

Potential for Resolution

Goulbourn staff acknowledge that By-law 40-99 does not reflect the Organic Soils shown in the Regional and Goulbourn Official Plans. Goulbourn staff did not deem it necessary to reflect organic soils in the zoning by-law as it is not explicitly stated as a requirement in the Regional Official Plan. Goulbourn staff consider that the main issue with adding it to the by-law now is the cost of mapping. Regional staff have confirmed that the mapping can be undertaken by the Region at no cost to Goulbourn.

3. Commercial Zones

Insert limits on Gross Leasable Area consistent with the Regional and Goulbourn Official Plan retail hierarchies into section 13 of the Zoning By-law. Also insert a definition of Gross Leasable Area into the Zoning By-law.

Grounds for Appeal

Section 13, Commercial Zones (CH, CC and CMU zones) of the Zoning By-law do not contain limits on gross leasable area. Such limits are required by the Regional Official Plan, section 4.7. In addition, the Goulbourn Official Plan also establishes a retail hierarchy that is not reflected in the Zoning By-law. A definition of gross leasable area that conforms to the Regional Official Plan is also required to provide such meaning to such limits.

Potential for Resolution

In meeting with Goulbourn Planning staff it was acknowledged that the retail hierarchies reflected in the respective official plans were not reflected in the comprehensive zoning by-law. Goulbourn did not feel there was a need to incorporate these provisions into the zoning by-law on the basis that there were no sites large enough in Richmond or Stittsville where the maximum retail levels would be compromised. Goulbourn also indicated that the necessary land assemblies to reach the retail caps were also unlikely to occur. The Region has consistently incorporated the retail caps in the Regional Official Plan in other municipal zoning by-laws and believes an exception is not warranted here. A simple amendment to the general commercial zone provisions or shopping centre/plaza definitions would suffice.

The addition of these retail limits (maximums of 35,000m² in Stittsville and 10,000m² in Richmond) would not constrain development of existing sites based on information provided by Goulbourn Planning staff. It would make conformity the Regional Official Plan explicit and ensure that any party contemplating a land assembly is aware of these upper limits.

4. Wetlands - Adjacent Lands

Insert a prohibition on development, as defined in the Provincial Policy Statement, in lands within 30 metres of the wetlands shown on Schedule A to the Zoning By-law. Also insert a definition of development consistent with the Provincial Policy Statement.

Grounds for Appeal

In the absence of studies indicating where development is possible on lands adjacent to a wetland, the Zoning By-law, to have regard to the Provincial Policy Statement and to conform to the Regional Official Plan, section 5.5.2, should prohibit such development.

Potential for Resolution

Given that the Ontario Municipal Board order re adjacent lands has not yet been issued, Regional Staff recommend that this specific appeal be withdrawn.

5. Wetlands

The Zoning By-law should zone all Significant Wetlands South and East of the Canadian Shield designated in Schedules “A” and “B” of the Regional Official Plan as Wetland.

Grounds for Appeal

In order to conform to the Regional Official Plan, the Zoning By-law must zone as Wetland all Significant Wetlands South and East of the Canadian Shield. With the fact that the Association of Rural Property Owners are no longer pursuing their appeal in respect of Significant Wetlands South and East of the Canadian Shield within Goulbourn, all such lands should be zoned as Wetland in the Schedules to the Zoning By-law.

Potential for Resolution

Goulbourn properly included all significant wetlands which were not under appeal in the zoning by-law. In the week preceding the final adoption of By-law 40-99 the appeal affecting other significant wetlands in the Township of Goulbourn was withdrawn. The Region acknowledges that the timing of events were such that Goulbourn did not know of the appeal status and could not have made the necessary changes in advance of the scheduled meeting where final reading of the by-law occurred. Notwithstanding the above, the Region believes that the simplest way of appropriately zoning the outstanding provincially significant wetlands would be by order of the Board. As in the case of organic soils, the Region is prepared to assist with the necessary mapping

6. Lot 15, Concession 10 - Specific Open Space Zone

This parcel should be zoned to permit only existing uses.

Grounds for Appeal

These lands are designated as “Limestone Resource Area” in the Regional Official Plan. The permitted uses should be restricted to reflect the existing uses only as was done in the abutting OS-1 zoned property.

Potential for Resolution

The above issue reflects the presence on an existing use on the property. Notwithstanding the recognition of an existing use and that no uses should be rendered non-conforming, there are other permitted uses in the proposed zone which could in fact sterilize the limestone resource. The By-law should be restricted to permit only existing uses or other uses which do not compromise the eventual extraction of the limestone resource. Regional staff have contacted the affected landowner who indicated that his plans for the property involved mineral extraction and that he did not anticipate any problems with what the Region is proposing.

Recommendation

That Planning and Environment Committee recommend that Council sustain Regional staff's appeals 1, 2, 3, 5 and 6 of ZBL 40-99 to the Ontario Municipal Board and withdraw appeal 4.