



**City Of Kingston
Planning Committee
Meeting Number 09-2019
Minutes
Thursday April 4, 2019 at 6:30 p.m.
Council Chamber, City Hall**

Committee Members Present

Councillor Neill; Chair
Councillor Chapelle
Councillor Hill
Councillor Hutchison
Councillor Kiley
Councillor Osanic

Regrets

None

Staff Members Present

Paige Agnew, Director, Planning, Building & Licensing
Lanie Hurdle, Acting CAO
Lindsay Lambert, Senior Planner
Laura MacCormick, Deputy Director, Planning, Building & Licensing
Jason Sands, Senior Planner
James Thompson, Committee Clerk

Others Present

Members of the public were present

Meeting to Order

Councillor Neill, Chair, called the meeting to order at 6:30 p.m.

Approval of the Agenda

Moved by Councillor Kiley
Seconded by Councillor Hutchison

That the agenda be amended to include the addendum, and as amended, be approved.

Carried

Confirmation of Minutes

Moved by Councillor Hill
Seconded by Councillor Kiley

That the minutes of Planning Committee Meeting Number 08-2019, held Thursday March 21, 2019, be confirmed.

Carried

Disclosure of Pecuniary Interest

There were none.

Delegations

There were none.

Briefings

There were none.

Business

- a) **Subject: Supplementary Report**
File Numbers: D14-041-2013 & D12-010-2013
Address: 655 Graceland Avenue
Application Types: Zoning By-Law Amendment & Draft Plan of Subdivision
Owner: 1829871 Ontario Limited
Applicant: Ainley Graham & Associates Limited

Ms. Lambert conducted a PowerPoint presentation regarding 655 Graceland Avenue. A copy of the PowerPoint presentation is available in the City Clerk's Department.

Councillor Osanic noted that approximately 48 freight trains and 30 VIA trains travel through Kingston daily. She referenced the Noise Impact Study and sought further

information regarding the rationale for conducting the study during the middle of the night. Ms. Lambert responded that the study was reviewed by Engineering Services and indicated that staff requested that the applicant follow up on some issues.

Councillor Osanic requested confirmation that windows facing the CN railway will be fixed and unable to be opened. Ms. Lambert confirmed that windows facing the railway will be required to not be operational.

Councillor Osanic questioned if the purchase of sale agreement will include language regarding the impact of train vibrations. Ms. Lambert responded that the purchase of sale agreement would only include a general provision regarding the CN railway. Ms. Hurdle stated that the Noise Study was likely scheduled when other noises would be at their lowest levels and indicated that this approach would produce the best analysis of the impact of train vibrations.

Councillor Osanic sought further information regarding the design of the fence and berm. Ms. Lambert provided the Committee with information regarding the design of the fencing and associated berm. She indicated that the design will be imbedded within the by-law governing the zoning of the subdivision.

Councillor Osanic asked staff whether the required setback from the railway could be increased to 40 meters. Ms. MacCormick responded that the applicant is not seeking relief regarding the setback requirements outlined in the Zoning By-Law. She indicated that the setback has been professionally reviewed and it has been determined that 30 meters is an appropriate setback due to the proposed buffering. She clarified that the 30 meter setback is permitted as a right and is supported by staff. Councillor Osanic questioned if Council could amend the Zoning By-Law to require a 40 meter setback. Ms. MacCormick responded that from a technical standpoint staff do not recommend adjusting the setback as 30 meters is appropriate.

Councillor Osanic referenced the Guidelines for New Development in Proximity to Railway Operations" (May 2013). Ms. MacCormick noted that the document simply provides guidelines and explained that the CN setback requirement of 30 meters and indicated is the standard that is in effect across Canada.

Councillor Chapelle stated that he has reviewed the application with significant interest and noted that a FCM study suggests that a buffer zone of 300 meters from a rail line be implemented. Ms. MacCormick provided clarification regarding the intent of the FCM study. Councillor Chapelle was of the opinion that the subdivision is poorly designed.

Councillor Chapelle noted that that staff provided suitable responses in the supplemental report to the numerous questions raised at the March 7, 2019 meeting.

Councillor Hutchison sought further explanation regarding the design of the acoustic fence and berm. Ms. Lambert spoke to page 76 of the Report.

Councillor Kiley asked staff if acoustic barriers have proven to be helpful in other areas of Kingston. Ms. Lambert spoke to the effectiveness of mitigation measures in other areas of Kingston and utilized Waterloo Village as an example.

Councillor Hill questioned if it would be possible to plant vegetation within the 30 meter buffering area. Ms. Lambert responded that it would likely be possible to maintain vegetation in the buffering area provided that the slope of the berm is maintained. Councillor Hill noted that permitting vegetation would provide habitat for wildlife.

Councillor Osanic spoke to the importance of a sidewalk being installed from Graceland Drive to Lincoln Drive. Ms. Lambert responded that Engineering Services identified this matter as an issue and indicated that the sidewalk improvement has been itemized as a condition to be completed by the proponent.

Councillor Chapelle sought further information regarding parkland allocation. Ms. Lambert explained that a portion of the parkland was previously provided and indicated that the applicant is required to meet the parkland standards outlined in the Planning Act. Councillor Chapelle asked staff why the application is not being reviewed as a standalone application. Ms. Agnew reiterated that parkland is governed by the Planning Act and stated that the previous applications related to the development of this subdivision must be taken into consideration. She clarified that if the application was a standalone file, five percent of the subdivision would be allocated to parkland.

Councillor Neill referenced the PowerPoint slide regarding near railway neighbourhoods in Kingston and questioned why some of the neighbourhoods were not buffered by a berm. Ms. Lambert responded that some of the areas are governed by a different zoning by-law which does not contain provisions for railway setbacks. She indicated that the berms may have been dealt with as part of the site specific zoning or as part of the site plan control agreement rather than the zoning by-law.

Councillor Neill asked staff whether the applicant would be required to provide payment in lieu of parkland if they did not meet the parkland requirements. Ms. MacCormick stated that the applicant has satisfied the parkland requirements.

Councillor Neill questioned if the deed will note that the property is located within close proximity to the CN railroad. Ms. Agnew provided additional information regarding the language required by CN to be included in the deed.

Councillor Neill resumed the role of Chair.

The Chair afforded members of the public with an opportunity to provide comment.

Ms. Whiting, 1109 Lincoln Drive questioned if consideration has been given to ensuring that the proper traffic calming measures are in place should the application be approved. She expressed concern regarding the number of trees which would be lost and noted that the public will no longer be able to utilize the trails through this area. She indicated that this development will impact the turkeys, deer and coyotes living in the area. She commented that the vibrations streaming from the trains are excessive on Lincoln Drive and are even more impactful to Forest Hill Drive East residents. She stated that the Noise Study should have examined the impact of freight trains further.

Ms. Addy-Seoane, 532 Forest Hill Drive East suggested that an additional Noise Study should be conducted in the early morning as she was recently awakened by a freight train. She commented that additional vibration measures should be conducted. She stated the purchase of sale agreement should include a clause regarding the impact of the railway. She mentioned that she has lived in the neighbourhood for over 18 years and indicated that during this time the size of the trains has increased. She commented that the noise from the trains will be dreadful. She was of the opinion that the proposal is disgraceful.

Mr. Salamone, 512 Forest Hill Drive East, mentioned that he is a light sleeper and indicated that he has never once been woken up by either a train or the associated vibrations. He noted that his family also sleeps through the night. He commented that he does not agree with most of what has been said during the meeting. He indicated that he has seen no more than two turkeys over the last six years. He commented that he was surprised to see that 76 trains pass the neighbourhood daily. He stated that his family loves living in the area and commented that other families should be given the opportunity to live in the neighbourhood. He commented that the neighbourhood is its own community.

Ms. LeCarte, 531 Forest Hill Drive East indicated that she moved into the neighbourhood in July and mentioned that she enjoys that her property does not have a rear neighbor. She commented that residents enjoy the trees and natural vegetation. She stated that train noise is an issue. She noted that an effort should be made to protect the wildlife living in this area. She commented that the neighbourhood does not support additional development.

Ms. Lambert informed the Committee that staff determined that a traffic impact study was not required and indicated that traffic calming could be considered in the future.

Ms. Lambert mentioned that there will be public consultation regarding the design of the park.

Ms. Lambert referenced the Ecological Services Document and noted that it has been confirmed that threatened or endangered species do not live within the site.

Ms. Lambert stated that the area has been zoned as residential for several decades and indicated that policies support intensification in this area.

Ms. Lambert explained that Engineering Services conducted a technical review of the Noise Study and indicated that she cannot further address the methodology.

Ms. Lambert clarified that the 300 meter buffer area which was referenced earlier by a Committee member is an influence area but does not relate to the prescribed minimum setbacks for land adjacent to railways.

Moved by Councillor Hill
Seconded by Councillor Osanic

That paragraph 3 of the recommendation in Report Number [PC-19-014](#) be deleted and replaced with the following:

That the Draft Plan of Subdivision be subject to the conditions as per Exhibit A (Proposed Draft Plan of Subdivision Conditions) to Report Number PC-19-027.

Carried

- b) File Numbers: D14-041-2013 & D12-010-2013**
Address: 655 Graceland Avenue
Application Types: Zoning By-Law Amendment & Draft Plan of Subdivision
Owner: 1829871 Ontario Limited
Applicant: Ainley Graham & Associates Limited

Councillor Osanic sought further information regarding the ecological study methodology and commented that it seems like the ecologist was only on site twice during the month of June. Ms. Snetsinger, Ecological Services informed the Committee that Ecological Services first became involved with this project in 2011 when the City requested that they examine the white tail deer on lands which overlap this site. She mentioned that she has been on about 40 percent of the land in question. She stated that after she studied the site in relation to white tailed deer she informed the CRCA that the City is not required to conduct additional assessment. She stated that she was retained this month to examine the site for turkey vultures. She spoke to the confusion regarding identifying the turkey vulture species properly. She indicated that the number of turkey vultures in Kingston has increased and commented that overall the species is doing very well. She indicated that she does not believe that turkey vultures are nesting on this site. She provided additional information regarding the technical elements of her letter.

Councillor Chapelle expressed concern regarding the Noise Study methodology and suggested that a different approach should be utilized in the future.

Councillor Kiley noted that additional species were mentioned in the correspondence but were not examined by Ecological Services. He sought further information regarding the potential harm that this development would pose to other types of wildlife. Ms. Snetsinger responded that Ecological Services was only requested to provide comment regarding turkey vultures. She stated that most species currently living in this area would be tolerant of human activity and commented that it is suitable to remove the vegetation once the nesting period has ended. She indicated that the wildlife would relocate to more suitable spaces.

The Chair afforded members of the public with an opportunity to provide comment.

Ms. Riley, Ainley Group sought further explanation regarding the procedural implications of the amendment which was included in the supplemental report. Ms. MacCormick provided clarification regarding the implications of the amendment.

Councillor Osanic mentioned that the Planning Committee had a detailed discussion regarding this matter at the March 7, 2019 meeting. She indicated that she still has concerns regarding the proposal. She stated that the proposed subdivision differs from other neighbourhoods in Kingston which are located along the railway as there are two level crossings nearby which are subjected to train whistles.

Councillor Osanic stated that she would like to see vegetation planted along the berm as well as trees planted in front of the chain-link fence.

Councillor Osanic mentioned that she would likely request that the site plan be bumped up to the Planning Committee.

Councillor Osanic expressed concern regarding increased traffic along Lincoln Drive.

Councillor Osanic noted that she still believes that a single loaded road for road "a" should be considered.

Councillor Osanic referenced the Tree Preservation Plan and requested that as many trees as possible be retained.

Councillor Osanic suggested that the park design not include a fence.

Councillor Hill stated that the Planning Committee must work within rules and respect the positions of both members of the public as well as the applicant. He indicated that

the land was purchased with the understanding that a subdivision would be permitted. He stated that even if the Planning Committee does not like the requirements outlined in the Zoning By-Law or Official Plan they are the policies which are in place. He mentioned that one resident noted that they were happy to live in this neighbourhood. He stated that the Committee must follow the City's infill policy and indicated that the application addresses some intensification goals. He commented that while he has some reservation about permitting the construction of homes along the train tracks the only alternative would be for the City to purchase this land to build a park and indicated that this proposal would create a precedent for all future development proposals in Kingston. He reiterated that the process must be respected as the application is a legitimate development proposal before the Committee. He stated that there is not a legitimate reason for the Committee to not support the application.

Councillor Chapelle noted that he is supportive of the comments provided by Councillor Hill. He stated that he hopes that as many trees as possible are retained. He indicated that a single loaded road would have been a great option and commented that perhaps it can still be considered.

Councillor Hutchison sought further explanation regarding the design of the sound barrier. Ms. MacCormick spoke to page 175 of the Report and provided clarification regarding the design of the noise barrier.

Councillor Hutchison stated that he is in agreement with the statement provided by Councillor Hill. He indicated that the supplemental report prepared by staff provided very good responses to the questions which were previously raised. He commented that he does not mean to diminish the concerns of residents but there are numerous policies in place which must be respected. He stated that the rules are the rules and noted that staff have provided their professional recommendation. He stated that he does not believe that there is any reason to turn down the application. He suggested that if the application was denied the LPAT would immediately overturn the decision and the City would be responsible for the costs associated with the hearing.

Councillor Kiley stated that he has the same sentiments as his colleagues. He indicated that moving forward policies will need to be changed in order to ensure that this type of situation does not present itself again. He commented that he will be influenced by this decision when shaping new policies. He spoke to the importance of saving trees.

Councillor Neill requested that Councillor Kiley assume the role of Chair.

Councillor Neill spoke to the new LPAT appeal requirements.

Councillor Neill requested that staff examine railway setbacks when the consolidated zoning by-law is prepared.

Councillor Neill noted that most wildlife will adapt to the changes to their habitat.

Councillor Neill indicated that he is supportive of the application.

Moved by Councillor Hill

Seconded by Councillor Hutchison

That the applications for zoning by-law amendment and Draft Plan of Subdivision (File Numbers D14-041-2013 & D12-010-2013) submitted by Ainley Graham & Associates Limited, on behalf of 1829871 Ontario Limited, for the property municipally known as 655 Graceland Avenue, be approved; and

That By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended, be further amended, as per Exhibit A (Draft By-Law and Schedule A to Amend Zoning By-Law Number 76-26) to Report Number PC-19-014; and

That the Draft Plan of Subdivision be subject to the conditions as per Exhibit A (Proposed Draft Plan of Subdivision Conditions) to Report Number PC-19-027.

That Council determines that in accordance with Section 34(17) of the *Planning Act*, no further notice is required prior to the passage of the by-law; and

That the amending by-law be presented to Council for all three readings.

**Carried As Amended
See Business Item "a"**

- c) File Number: D07-003-2018
Address: 800 John Marks Avenue
Application Type: Final Plan of Condominium
Owner: Kingston East Medical Campus Corp.
Applicant: Fotenn Consultants Inc.**

Mr. Sands conducted a PowerPoint presentation regarding 800 John Marks Avenue. A copy of the PowerPoint presentation is available in the City Clerk's Department.

Moved by Councillor Hill

Seconded by Councillor Chapelle

That it be recommended to Council that the application for Final Plan of Condominium (File Number D07-003-2018) submitted by Fotenn Consultants Inc., on behalf of

Kingston East Medical Campus Corp., for the property municipally known as 800 John Marks Avenue, be approved; and

That the execution of the Condominium agreement for the Final Plan of Condominium (D07- 003-2018) be subject to the successful registration of the Final Plan of Subdivision application (File Number D12-005-2018); and

That final approval be subject to the Owner entering into a Condominium agreement with the City, the agreement shall provide further notice to the Condominium Corporation and present and future purchasers, of the conditions contained within the registered Site Plan Control agreement and that the Condominium Corporation will be responsible for maintaining the approved site works and fulfilling any conditions of the agreement; and

That subject to the satisfaction of the Director of Legal Services, the Mayor and Clerk be authorized to execute the Condominium agreement, and the Director of Legal Services be authorized to forward the necessary signed and stamped originals and required copies of the Final Plan of Condominium to the Land Registry Office for registration.

Carried

Motions

There were none.

Notices of Motion

There were none.

Other Business

There was none.

Correspondence

There was none.

Date and Time of Next Meeting

The next meeting of the Planning Committee is scheduled for April 18, 2019 at 6:30 p.m. at City Hall.

Adjournment

Moved by Councillor Chapelle
Seconded by Councillor Hill

That the meeting of the Planning Committee adjourn at 8:20 p.m.

Carried