



Greenspace Alliance of Canada's Capital
Alliance pour les espaces verts
dans la capitale nationale

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October 23, 2006

BY HAND

Pierre G. Pagé,
Clerk of the City of Ottawa
110 Laurier Avenue West
Ottawa, Ontario K1P 1J1

Dear Mr. Pagé:

Subject: Appeal of By-Law Number 2006-380
Property at Bank Street and Meadowlilly Road – Leitrim

The undersigned, representing the Greenspace Alliance of Canada's Capital and the Sierra Club of Canada respectively, hereby appeal to the Ontario Municipal Board City Council of Ottawa's passage on September 27, 2006 of By-law Number 2006-380. Both organizations are incorporated. We intervened before Council made its decision, objecting to this rezoning.

This By-law amends the City's Zoning By-law. Our organizations also appealed the related draft approval of a Plan of Subdivision (File No. D07-16-03-0020). Ottawa rejected that appeal but this rejection has been appealed to the Board on October 2, 2006 (representation by Ms. Kate Kempton, solicitor).

Our grounds for appealing the Zoning By-law amendments pertain primarily to what the Location map of staff report ACS2006-PGM-APR-0168 of August 29, 2006 refers to as Parcel 1. The grounds are as follows:

1- The proposed development will adversely affect the Leitrim Wetland and have a significant negative effect on Findlay Creek and on the local water table. Already, the construction of a by-pass ditch and berm have caused significant flooding of the core wetland, leading to the destruction of many plant communities including a stand of 120-year-old cedars.

2- The area proposed for rezoning includes the major part of Site #106 of the City's Urban Natural Areas Environmental Evaluation Study. Access to this site for evaluation was denied by the owner. The area of overlap was then inappropriately removed from Site #106. No Environmental Impact Statement was provided, contrary to section 2.4.5 (7) of the City's 2003 Official Plan, as amended. Loss of the woodland of Site #106 would result in significant decline in wildlife, especially birds. The loss of forest cover is contrary to the City's Official Plan objective to increase forest cover (as per section 2.4.5, policy (10) [post-OPA 13], and other policies).

3- There are ten Regionally Significant plant species in Parcel 1, of which four appear nowhere else in the wetland area. As well, there are at least 35 Uncommon native plants. The City is expected to protect these species, not permit their destruction. Development of this parcel would result in a significant loss of biodiversity within the Leitrim wetland ecosystem.

4- The scientific definition of the Leitrim Wetland (OMNR, 1989, 1991) includes much of Parcel 1. At a minimum, a natural transition zone between the wetland core and the surrounding area would be lost if Parcel 1 were developed. Transition zones are the areas of greatest diversity of species in a wetland area.

5- There is uncertainty about the effect on human health of toxic wastes migrating from the former Gloucester Landfill. A Transport Canada Area-Wide Risk Assessment has been found to be seriously flawed. The role played by peat in holding back the migration of approximately 20 toxic chemicals has not been examined. Removal of peat to make way for development may speed up the migration. There is uncertainty about where the liability for toxic waste clean-up or for harm to human health lies.

6- The Environmental Management Plan for the Leitrim External Storm System (Update, December 2005) that is to serve this development is seriously flawed. Among other things, it does not provide for monitoring of the flow and water levels in Findlay Creek nor does it foresee a need to trigger contingency plans if water levels in the wetland would become too high, as is the case now and has been for about a year. No pre-construction flow data for Findlay Creek were collected. A recent flow study is flawed because it lacks data from two key locations.

7- Various federal approvals related to this development were predicated on proponent commitments that water levels and plant communities in the core wetland would be maintained in their pre-construction state. These commitments are not being met and city, federal and provincial authorities are for the most part not responding effectively to the violations.

8- These approvals were also given on condition that Findlay Creek's temperature regime and base flows would be maintained in their pre-construction state. Findlay Creek is now receiving an abundance of warmer water – through the by-pass ditch, a park swale and back-flooded parts of the core wetland. Findlay Creek is one of the few remaining streams in the City providing a temperature and habitat suitable for a put-grow-take trout fishery. The Ministry of Natural Resources used to stock this stream with Brook Trout but, because the water became warmer, was forced to use Rainbow Trout and, this year, Brown Trout – the most warmth-tolerant salmonid species available. If the waters become much warmer, no trout will be able to survive.

9- A large swale has been constructed that was not shown on plans assessed in DFO's 2003 and 2006 Screening Reports; nor did it appear in the 2004 Leitrim Community Design Plan; nor was it referred to in a "Design Brief and Amendment to MOE Certificate" for approval of the Findlay Creek Stormwater Facility submitted by the City and dated July 2005; nor was it shown in reports about the draft Plan of Subdivision sent to Council in Spring 2006. In short, this major feature has been hidden from public, Council and federal officials' scrutiny. Yet, it was on a design drawing dated February 2005 and became referred to in an Amended Certificate of Approval issued by MOE in January 2006. Such issuance was inappropriate. This swale could pose safety risks to children and may negatively affect the core wetland.

10- Any other grounds we may later bring forward and the Board may allow.

For all these reasons, we submit that this By-law does not constitute good planning and should be rejected.

Should our appeal of the rejection of our appeal of the Draft Plan of Subdivision be upheld, then we request that both the latter appeal and the appeal of the Zoning amendment be heard together.

A cheque for \$125.00 made out to the Ontario Minister of Finance is enclosed.

Respectfully submitted,

for the Greenspace Alliance of
Canada's Capital,

for the Sierra Club of Canada,

Carol Gudz,
Interim Chair

Stephen Hazell,
Executive Director