

National Capital Commission: Protector of Greenspace or Protector of Developer Rights?

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The National Capital Commission (NCC) has often stated that it is willing to follow the planning procedures of the municipalities in which it owns land. As a federal body it is not required to do so. However when it says it will follow the procedures, what it really means is that it will use all means to ensure its rights as a landowner are protected, regardless of the wishes of the Council or the people of the city. The following history of the (old) Ottawa Official Plan and rezoning exercise illustrates the attitude and actions of the NCC with regard to City-initiated (and citizen-backed) planning actions.

The (old) Ottawa Official Plan

First let's look at the Official Plan of the (old) City of Ottawa dating from 1991. A prominent part of this plan was the Greenway System, which mainly included much of the green space owned by the NCC, namely:

- * . all the NCC lands along the Western Parkway
- * . Mud Lake and Britannia Park
- * . the Pinecrest Corridor and the Western Corridor
- * . the lands along the Rideau Canal and River
- * . the Rockcliffe Parkway, including Rockcliffe Park
- * . the Aviation Parkway lands
- * . part of the Southern Corridor
- * . the Airport Parkway lands
- * . both the east and west Alta Vista corridors.

The Greenway System consisted of various elements such as Waterway Corridors, Major Open Spaces, Environmentally Sensitive Areas and so on.

NCC Appeals the Greenway System

After the city's Official Plan was passed by Council in 1991, it went to the Regional Municipality of Ottawa-Carleton (RMOC) for approval. At that stage the NCC asked for certain changes in Schedule A with regard to the Greenway System. (Schedule A is the major land-use map for the former City of Ottawa.)

In 1993, Regional Council agreed to add the following to Schedule A: "The border of the Greenway System is to be considered conceptual; should not be interpreted to follow individual property boundaries and will be delineated through specific studies which will include public participation."

As well, Regional Council agreed to make changes to section 6.2.2.c) "Protect Against Loss" and section 6.2.2.d) "Amendment Required". Particular mention was made of the Alta Vista corridors (both east and west), the Inner Ring Road corridor and the Pinecrest Creek to the Experimental Farm corridor requiring that the "definition of the extent of the Greenway System within these corridors shall be determined by secondary plans carried out jointly by the City of Ottawa, the NCC and the RMOC and with public consultation". Much later, in 1995-96, there were some trades of land such that the East Alta Vista and Airport Corridors became Regional lands, and the West Alta Vista Corridor up to Heron Road was given to the city and rezoned between Heron and Kitchener.

Waterway Corridor Policy Appeals

Portions of the Official Plan's Waterway Corridor policies, namely section 6.6.2.b) "Support Leisure Where Appropriate" and section 6.6.2. c) "Ancillary and Complementary Uses", were also appealed. These appeals, however, were deferred since the NCC wished to allow Diplomatic Missions and Non-Governmental Organisations among the uses and was asking for an amendment to the Regional Official Plan for the same reason.

The deferrals were resolved by an OMB decision that confirmed the outcome of mediation. The agreement was to adopt language similar to that of section 6.5(3) of the 1997 Regional Official Plan. Only section 6.6.2 c) was changed to read:

"Ancillary And Complementary Uses --

c) City Council may permit other uses which benefit or serve the needs of visitors to the Capital, provided these uses contribute to, or are ancillary to, and will not detract from either the leisure uses and activities associated with the Waterway Corridor or its natural environment. These may include such uses as small-scale leisure facilities, small-scale commercial activities, and small-scale institutional uses. In this regard, it must be demonstrated that such uses:

- i) will meet the development guidelines as outlined in Policy 6.6.2 e) of this Chapter; and
- ii) are not more appropriately located in another area designated on Schedule A - Land Use [OMB Decision, October 15, 1999]."

This is one of the rare instances where the NCC came to agree that these Waterway Corridor lands were not suitable for diplomatic missions or non-governmental organizations.

Major Open Space Appeals

The NCC also appealed to the Region three parcels of land designated as Major Open Space:

1. the land along the edges of the Alta Vista Corridor,
2. the Carling to Maitland Avenue Greenway System and
3. the NCC lands at the southern end of Hampton Park, which are not part of the Park.

These three appeals were resolved by further changes in Schedule A with some pieces of land becoming residential and some becoming "Linkage"; and in the case of Hampton Park remaining Major Open Space.

Ottawa's Rezoning Exercise

Now let's discuss the city's rezoning exercise, which began in 1997-98. During that period, Ottawa undertook a complete rezoning of the city, including public consultation on the rezonings. The City's intent with this rezoning by-law was to implement to the extent possible the city's Official Plan policies rather than to change significantly the previous zoning.

As a result of this rezoning process, all NCC land in the Greenway system and some parcels outside that system were given an EW zoning (Waterway) if they bordered a waterway or an L (Leisure) zoning, with a very few parcels being zoned ES (environmentally sensitive). These zones replaced the previous P and G zones; the uses, however, were more restricted than under the previous zones. The NCC took a very legalistic stance and asked that the previous uses be included. They were, but as temporary uses ("tp") for a three-year period. The NCC then appealed this zoning to the OMB.

We will deal with the Greenway System NCC lands in discussing the resolution. As a reminder, this involved lands along the Ottawa River including Rockcliffe Park and Mile Circle; along the Rideau Canal and the Rideau River, the Pinecrest to Merivale Corridor, the Southern Corridor and the Aviation Parkway Corridor. By the time of the zoning by-law appeal, the Airport Parkway and the East Alta Vista Corridor had been transferred to the Region, and the West Alta Vista Corridor was dealt with separately.

To summarize the zoning changes resulting from settlement of the appeal: most of those areas that had been zoned "tp" with an odd number (these were the lands that were zoned "P" in By-law Z-2K, the previous zoning by-law) were left with the L or EW zoning but with exception 693 and h, while those that had a "tp" with an even number (previously zoned "G" in by-law Z-2K) were given exception 694 and h.

Exception 693 (applied to NCC lands formerly zoned P)

Exception 693 allows the following uses: cemetery; community centre; community health and social services centre; court house; dwelling units for elderly persons; ecclesiastical residence; fire station; home for children or for the aged, infirm or disabled; hospital or sanatorium with or without residential use but excluding a veterinary hospital, jail or detention home; municipal information office; municipal office operated solely and exclusively by the Corporation of the City of Ottawa or The Regional Municipality of Ottawa-Carleton; municipal or regional water reservoir or filtration plant; public health centre or similar municipal or regional structure; municipal or regional yard; park or playground; parkway; place of worship, including an associated place of public assembly; police station; public or private recreational or cultural facility; public utility installation excluding any uses which are primarily of an administration, maintenance or storage nature; school, college or university with or without dormitory facilities.

Some restrictions are placed on parking related to a municipal office and on uses related to the municipal or regional yard.

Exception 694 (applied to NCC lands formerly zoned G)

Exception 694 allows the following uses: building or use operated by the Corporation of the City of Ottawa, The Regional Municipality of Ottawa-Carleton, the Government of Canada, the province of Ontario, or any agency thereof, including a residence for Government officials; civil or military airport; community health and social services centre; diplomatic mission-chancery; diplomatic mission-mixed use; municipal information office; park or playground; parkway; public parking area; public utility installation.

The "h" Designation

The holding addition to a zone -- the "h", as in EW (694)-h -- means that a public secondary planning process must be completed before the "h" can be removed. This holding addition to the zone was a result of negotiations, and the resolution was arrived at without an OMB hearing.

Zoning Status of the NCC Lands Following Settlement of the Appeals

The NCC lands we have been discussing received the following zoning designations:

- * Most of the Ottawa River Parkway lands were zoned EW (693)-h, except for the land immediately north of Tunney's Pasture which was zoned EW (694)-h and Bate Island which became L1E.

- * The Pinecrest to Merivale lands were zoned L2 or L2B (693)-h, except for some land south and east of Woodroffe High School which was zoned L3(693)-h and the pathway strip north of Central Park, zoned L2 (694)-h.

- * Hampton Park was rezoned L1 (693)-h.

- * Rideau Canal lands (outside the Central District) were rezoned EW(693)-h, except for the Canal Ritz and its parking lot and the Marina and other buildings at the end of Dow's Lake and the associated parking lot where the rezoning recognized these uses.

- * East of the Central area, Ottawa River lands along Sussex were rezoned to EW or EW2 (694)-h while Rockcliffe Parkway lands were mostly rezoned EW3 (693)-h, although Rockcliffe Park was given L1 (693)-h and the "Mile Circle" lands south of the Parkway L3 (693)-h.

- * North of the Aviation Museum grounds the rezoning was to EW (694)-h and for the northern portion of the airstrip lands to L1B (694)-h.

- * Aviation Parkway lands were given L2 (693)-h, except around the Museum where they became L2 (694)-h and L1B (694)-h).

- * Rideau River lands were generally rezoned EW (693)-h, with the Moffatt Farm given L1 (693)-h, the Rideau Canoe Club EW (356), lands north of King George L3 (693)-h; lands west of RCMP headquarters became EW (694)-h, lands south of the Queensway to Transit Station EW (694)-h; most of Vincent Massey Park was given L1 (693)-h; the area south of CNR tracks became L3 (693)-h, and the area between Chalmers and Riverside was zoned UR (Urban Reserve).

- * The Southern corridor between the Rideau and the Airport Parkway became L3 (693)-h up to McCarthy and L2 (693)-h zoning from there --except for a parcel between Nelligan and the CNR, which was zoned UR (Urban Reserve).

- * East of Bank Street, lands north of Ledbury and east of the end of Ledbury were also zoned UR.

- * Sawmill Creek lands north of Heron were given L1 (693)-h. Lands at the north end of Alta Vista were zoned L2 (693)-h.

- * The other non-Greenway System areas appealed by the NCC were mostly given zoning which

recognized their current use or were designated UR.

More Recent Developments: Partial Implementation of the N.O.S. Study

Since the time of the by-laws that resolved the rezoning appeals, the Natural Open Spaces Study (NOSS) resulted in both Official Plan Amendments and rezonings of selected NCC land to mostly ESAs (Environmentally Sensitive Areas). Covered by these amendments were most wooded areas and some stream shores or wetland type areas. The NCC seemed to accept the NOSS results in some cases but not in others, notably Hampton Park. The areas affected are indicated below:

1. Much of the land near the junction of the transit way and the Queensway (northwest corner).
2. Shore of bay and eastern peninsula north of Ottawa River Parkway just west of Woodroffe
3. Wooded area west of Island park Drive at Ottawa River Parkway and wooded area in same area north of Parkway
4. Two areas -one north of Castlehill and the other east of Clyde (Carlington woods)
5. Remic Rapids area-part of area north of Ottawa River parkway.(east and south of parking lot)
6. West and middle of east part of peninsula leading to Lemieux Island and the bay island nearest to the peninsula
7. Most of the Experimental Farm Arboreteum
8. Treed area between Fisher Avenue and Experimental Farm Driveway
9. Much of the shoreline area of Moffatt Farm
10. Area immediately surrounding Brewer Pond
11. Much of Rockcliffe Park (portions near Ottawa River)
12. Area between Princess, Lisgar and Rockcliffe Parkway
13. Area west of Aviation Parkway (from some distance south of Montreal Road to near the end of Truro
14. Area north of Rockcliffe Parkway Northwest of the corner of Rigel
15. Cliff area of Rockcliffe Base-south of Rockcliffe Parkway
16. Triangular area west of Leopolds Drive along Rideau River
17. Area along east bank of Rideau River from Heron Road to Hog's Back Road
18. Area west of the building at corner of Heron and Riverside, north of Hog's Back Road
19. North portion of Vincent Massey Park along river
20. Strip along Rideau River, starting north of Hunt Club up to Malhotra
21. Lands east and west of Sawmill Creek, west of junction between Heron and Brookfield
22. Lands along Sawmill Creek from the Rideau River to CN Railway and the transitway
23. Lands south of Pleasant Park Road.

Maps for the boundaries of the areas described above should be consulted for exact boundaries of the ES or ES1 zones created by the rezonings. In two cases (14 and 17, some portions were rezoned to an L zoning with exception 694 or 693. Bylaw 154-2000 is the reference for these rezonings.

Later the area south of the Ottawa River Parkway and north of five new houses on Clearview Avenue, west of Patricia extending north of Pontiac to Carleton was rezoned ES as well To check on your area it would be best to consult the city zoning maps, since some additions or changes may have occurred in conjunction with other development.

In any case there are still large portions of NCC land without really protective zoning, including lands considered as National Interest Lands.

This review has not examined the situation in the Central Area (including LeBreton Flats) nor in areas which were in other municipalities prior to amalgamation. Further research would be required, but if the NCC has acted elsewhere as it has in Ottawa it probably has retained as many landowner rights as it could.

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