From: Erwin Dreessen
To: "MacPherson, Amy"
Subject: feedback on draft SAB
Date: February 28, 2017 8:55:00 PM

Dear Amy,

Thank you for inviting us to comment on the draft Site Alteration By-law (12 Jan 2017) before it is distributed for consultation to the general public. We recommend the following amendments:

Definitions

In "Alter" or "Alteration," insert "or how it drains" after "changing the grade of the land".

We agree with the proposed definition of "Development" adapted from the PPS.

The definition (scope) of "Negative impact" should not be limited to impact on natural features or functions. As section 6(1) makes clear, alteration of drainage is to be prohibited so that is clearly a "negative impact" as well.

In "Site Alteration," insert ", blasting" after "the compaction of soil".

Should you include the (new) definition of "Significant Woodlands"?

Scope

This draft proposes that the scope of the by-law is limited to prohibiting:

- altering or obstructing drainage that deviates from the existing pattern;

- topsoil removal or other site alteration in Agricultural Resources Areas;

- site alteration in or within 30 m of an NEA, UNF, RNF or other Natural Heritage Feature identified in the City's NHS without prior written approval; it would give the City the option of requiring an EIS; and

- site alteration in the Critical Root Zone (CRZ) of any tree that is protected by the City's tree protection by-laws.

Amy, this misses a key reason why a site alteration by-law is needed, namely to prevent or at least regulate site alteration on land prior to the filing of any development application. Failure to make it apply to essentially any property makes the by-law virtually meaningless. Without broadening of the scope we will strongly oppose its passage.

Section 10(d) would make an ARA designation always trump an NHS designation. We disagree. Presumably there was a good reason for the NHS designation. In accord with the general directive in the PPS, a balance between the two objectives should be sought. For example, as part of Conditions for granting a Permit, the City could require that hedgerows be maintained.

Implementation

Section 6(1) refers to an "application" to alter a ditch. There is no reference to applications in any other circumstances where an owner may alter drainage. Clearly, this is unworkable: There should be an application process before any change in drainage is made and that application process should provide information about the potential impact on neighbouring properties. No change in drainage pattern affecting other owners should be allowed unless the applicant pays for any costs arising out of accommodation of any new pattern.

Sections 10 and 11 (re Natural Environment) refer to "prior written approval" which may be refused. (Section 12 defers site alteration approval in the CRZ to approval of a Tree Permit.)

Does this mean that Ottawa will join every other Ontario municipality after all by requiring a Permit for site alteration? All Schedule A calls for is written notification to all adjacent residents and the local Councillor 3 weeks before commencing the site alteration. Clearly this is not good enough. The bylaw should also make it very clear that no site alteration can take place on the land prior to applying for and receiving a permit to do so.

For clarity and greater certainty, the by-law or a schedule thereto should spell out what information the applicant has to provide. Other municipalities provide examples, e.g. Kawartha Lakes, Waterloo and Welland, among others. (Section 1(1) of Schedule A makes a beginning of such a list.) Over and beyond the general conditions listed in Schedule A (sediment and erosion control measures; fencing and other protective measures; and acceptable types of fill), the by-law should give the General Manager the authority to impose specific Conditions along with approval of the application.

The by-law should specify a timeline from application (once complete) to approval or denial -- at least one month.

Once again we suggest that the applications and approvals should be posted to the City's web site. Copies of the application and permit should also be posted along the perimeter of the property, e.g. every 100 meters.

To be clear: Without a permit system, this by-law will not be worth the paper it's written on and will be vigorously opposed.

In section 1(1) of Schedule A the word "should" should be replaced by "shall" (twice).

Your questions

We already gave suggestions re Definitions.

Re Schedule A you ask whether, instead of "adjacent," a radius should be specified for required notification. We answer in the affirmative and think that Markham's 500 m is commendable.

You ask whether there should be exceptions other than those listed in section 1 of Schedule A. We think not.

You also ask whether there should be a distinction between urban and rural and whether different scales of activity should have different requirements. We answer in the negative on both points.

On acceptable fill (section 1(5) of Schedule A) you ask which of two lists would be preferable. We suggest the two lists should be combined though omitting "frozen lumps" and "vegetable or organic matter." We would prefer to see the maximum size of rocks reduced to 100 mm.

Finally, there should be a clause about invasive species. Soil removed from the site or soil added to the site must be free of invasive species. As you likely know, the new regulations under Ontario's *Invasive Species Act* list the two species of Dog-strangling Vine, Phragmites and Japanese Knotweed that may not be moved from one site to another. There are also locally important species and those on the Ontario Noxious Weed List under the *Weeds Act* that should not be moved to new locations during a site alteration process.

Don't hesitate to call on us to clarify any of the above.

Regards,

Erwin

for the GA/FCA Working Group