



Corporate Report

NO: L001

COUNCIL DATE: February 25, 2008

REGULAR COUNCIL – LAND USE

TO: Mayor & Council DATE: January 11, 2008
FROM: General Manager, Planning and Development FILE: 7902-0395-00
SUBJECT: Development Application No. 7902-0395-00 (Sekhon Farm)

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information;
2. Amend Surrey Zoning By-law, 1993, No. 12000, Amendment By-law, 2006, No. 16353 (the "By-law") by replacing Schedule "B" of the By-law with a new Schedule "B" (Appendix "A") to adjust the minimum building setbacks for the revised subdivision layout;
3. Endorse additional requirements for the subject development application (No. 7902-0395-00) as documented in this report, as follows:
 - (a) revised lot grading along the easterly property line and elimination of the retaining wall;
 - (b) satisfactory completion of finalized geotechnical requirements;
 - (c) completion of a site filling and truck routing management plan to the satisfaction of the Engineering Department; and
 - (d) registration of a Section 219 Restrictive Covenant on the remnant parent farm parcel providing notice of potential long-term flooding risk to future owners and a Right to Flood Covenant to address drainage and flooding issues; and
4. Grant Third Reading to the By-law, as amended.

INTENT

The purpose of this report is to provide Council with information on the results of the additional review completed by the applicant in relation to issues raised at the April 2, 2007, Public Hearing, such as the investigation of an agricultural land swap and review of flooding and drainage issues for Development Application No. 7902-0395-00, as well as other issues raised at the Public Hearing, and how the applicant is proposing to address these issues and concerns. This report also outlines a proposed adjustment to the proposed subdivision plan and corresponding CD By-law, and prescribes additional requirements to address these issues.

BACKGROUND

Development Application No. 7902-0395-00 proposes to subdivide the southerly 3.6 hectares (8.8 acres) of land from the property at 16082- 40 Avenue, which is outside the Agricultural Land Reserve ("ALR"), in order to allow subdivision into 18 suburban lots, including four gross-density one-acre lots, and 14 gross-density half-acre lots. The subject land is designated Suburban in the Official Community Plan ("OCP") and One Acre Residential in the Rosemary Heights Local Area Plan. The application was considered by Council on March 12, 2007, and granted first and second reading (see Planning report attached as Appendix "B").

The Public Hearing for this application was held on April 2, 2007. At the Public Hearing meeting, several residents expressed concerns about the application. As a result, Council did not grant third reading to the By-law and adopted the following resolutions:

- "1. *That the by-law be referred to staff to look at opportunities for an agricultural land swap (RES.R07-1115); and*
2. *That Application No. 7902-0395-00 be referred to staff to obtain information from the Engineering Department relative to flooding issues on this property (RES. R07-1116)".*

DISCUSSION

Opportunities for an Agricultural Land Swap

One of the issues raised by residents at the Public Hearing was that the subject land has always been part of an active farm, therefore the portion of land proposed for development should be explored for inclusion into the ALR. As a result, the applicant explored opportunities to include the proposed development site into the ALR by "swapping" the subject parcel of land with another property in Surrey, located within the ALR. The intent of this exercise was to explore options that would allow the subject site to be included in the ALR in exchange for the removal of land from the ALR at another location within Surrey, to accommodate the proposed development.

The applicant's consultant, Pacific Land Resource Group, evaluated five sites in Surrey that were considered possible candidates for a land swap, as documented in Appendix "C", as follows:

- 17236 – 56 Avenue;
- 5390 – 152 Street;
- 15448 Highway No. 10;
- 16585/16605 – 88 Avenue; and
- 7555/7585 – 160 Avenue.

The evaluation noted the following key impediments to achieving a land swap:

- The presence of significant constraints affecting the potential development of these alternative sites (floodplain, presence of red-coded creeks, access issues, etc.);
- incompatible surrounding land uses (i.e. Industrial) that would prevent alternate sites from being developed for residential use;
- likely ALR exclusion restrictions on other ALR sites;
- inequitable base land values on alternate sites that would necessitate a much larger exclusion than the subject lands to achieve a financially equitable land swap; and
- owners of alternate sites unwilling to swap land.

The owners of two of the five sites declined a land swap offer. The third site, which is owned by the same owner as the subject property (the Sekhons), is not considered suitable due to significant impact on the floodplain and incompatible land use with adjacent industrial areas. Of the two remaining sites, one is in the floodplain and has already been proposed for exclusion by the owner and was previously denied by the Agricultural Land Commission. The final site contains a protected watercourse and is also partially within the floodplain, and thus is not considered an equivalent alternative site due to these significant constraints. The end result of the evaluation of the five sites was that an opportunity for a land swap was not feasible. A summary of the evaluation is attached as Appendix "D".

The applicants have indicated that, while they would accept a land swap if a reasonable parcel exchange of equitable economic value were available, this opportunity does not exist at this time. In addition, the applicants have expressed concerns about continuing the blueberry farming operation on the portion of the property that is outside the ALR, due to increasing nuisance concerns and other operational impacts being experienced by the applicants, resulting from the proximity of the surrounding residential dwellings. Inclusion of this land in the ALR would bring these impacts closer to existing residents. These impacts include trespassing, damaged crops, complaints regarding bird canons and conflicts with residential neighbours.

Agricultural Advisory Committee

The applicant's land swap submission was presented to the Agricultural Advisory Committee (the "AAC") on December 6, 2007 (Appendix "E"). The AAC was of the opinion that there were additional options for a land swap in Surrey that were not explored which should have been, and that the approximate land values stated in the conclusion were not a true representation of land values of a property outside the ALR. The AAC also noted that under the *Land Commission Act*, Council has the authority to submit an application to include the subject site into the ALR.

Drainage and Flooding Risk Analysis

The majority of the property is within the agricultural floodplain and is subject to flooding.

On June 11, 2007, Council considered a corporate report dealing with development within floodplain areas (Corporate Report No C013). The report raised concerns about development in the floodplain and, as a result of that report, Council endorsed a policy of limiting future development in the floodplain and established a moratorium on development within floodplain areas, pending development of a City policy on filling and development in the floodplain. Staff are presently working on a policy and will be bringing information forward to Council in the coming weeks. However, the report also recognized several in-stream applications, such as the subject application, and provided direction to staff in these cases under the following Council resolution:

- "3. *Direct staff to continue to process in-stream development applications in the floodplain but to ensure that any impacts to the floodplain are mitigated RES.R07-1770*".

The applicant has retained Hub Engineering Inc. to undertake an analysis of the proposed development from the perspective of drainage and flood risk impact and to ensure that drainage and floodplain impacts are mitigated.

On the basis of City policy, the consultant has confirmed that all of the proposed dwellings and municipal infrastructure will be constructed above the 200-year flood level. In addition, the applicant's engineering consultant completed an analysis to evaluate the drainage and flooding impacts from the development, including an assessment of flooding risk for a 200-year flood event, as well as possible dyke and sea dam breach events. The analysis confirmed that no drainage impacts are anticipated to neighbouring properties as a result of this development beyond those impacts mitigated through the drainage plans in this area. The Engineering Department concurs with these findings. It is noted that the developable (non ALR) portion of the site was designated for development in the OCP and LAP, and was historically assumed to be developed under the master drainage plans in this area. In light of the above, the Engineering Department can support the proposed development of a portion of the floodplain proposed under this in-stream application pursuant to Council's directive to staff.

Nevertheless, it is understood that any development in the floodplain exposes future residents to potential flooding risks in the long term. As a result, the Engineering Department has requested that a Section 219 Restrictive Covenant be registered on the future lots to provide notice to future owners of the site's location within a floodplain and possible long-term flooding risk. In addition, since the parent agricultural parcel is to remain in the ALR, the Engineering Department has also requested a Right to Flood Covenant on the remnant parcel to save the City harmless of any potential flooding impacts from development(s) in this area. These additional requirements will be required to be completed prior to final adoption of the By-law.

Other Issues Raised at Public Hearing

At the April 2, 2007, Public Hearing, a number of other issues of concern were raised by area residents, including geotechnical concerns, magnitude of truck traffic and truck routing to ensure safety of residents, and the impact of the proposed retaining wall along the east property line, adjacent to the Gibbons property. These issues have been explored by the applicant with additional measures to address them.

Truck Filling and Routing

Concerns were raised by residents about the large volume of fill required for the property, and the number of trucks entering and leaving this area to facilitate this filling program. Residents cited recent filling activities in nearby areas and indicated that significant impact would be incurred, due to the high volume of large trucks, noise and dust impact, damage to roads and, most importantly, safety for motorists, pedestrians and children. Concern was also expressed about the acceptable route that would be utilized by the trucks and, particularly, that the use of 160 Street from the south through the Morgan Creek area should not be permitted.

The consultant has revised the lot grading plan and reduced the total amount of fill required for the site since the Public Hearing. The consultant has provided an estimate of the number of truck movements anticipated to complete the required fill program, including the anticipated time required to complete the filling, duration of each stage of filling, and site pre-loading and removal, as follows:

<i>Activity and Volume of Material</i>	<i>Estimated Trucks Trips¹</i>	<i>Approximate Duration</i>
Remove topsoil, stockpile onsite	N/A	1 week
Stage 1 fill (32,328 m ³)	1,796 (trucks with trailers) to 4,618 (single trucks)	1.5 to 2 week
Stage 1 settlement		min. 6 weeks ²
Stage 2 fill (32,328 m ³)	1,796 (trucks with trailers) to 4,618 (single trucks)	1.5 to 2 week
Stage 2 settlement		min. 6 weeks ²
Stage 3 fill and preload of building envelopes and roads (32,328 m ³)	1,796 (trucks with trailers) to 4,618 (single trucks)	1.5 to 2 week
Stage 3 settlement		min. 6 weeks ²
Remove excess fill/preload (60,840 m ³)	3,380 (trucks with trailers) to 8,690 (single trucks)	2.5 to 3.6 weeks
TOTAL	8,768 (trucks with trailers) to 22,544 single trucks	min. 25-27.6 weeks

¹ Actual number of truck trips will vary depending on the truck options available to the contractor, either single trucks trips, truck with pup, or truck with full trailer trips.

² Settlement duration period for each stage to be confirmed through geotechnical monitoring during settlement period.

The Engineering Department has reviewed the truck load information and has deemed it acceptable.

To minimize truck routing disruption to the surrounding community, a truck routing management plan will be required to be completed in conjunction with the surrounding community, prior to final approval. This plan will require that trucks utilize 160 Street and 40 Avenue to access the site. Due to the fact that 40 Avenue, between 152 Street and 160 Street was recently upgraded, to avoid damage to this portion of road, consideration will be given to routing trucks to 40 Avenue and 160 Street via either 168 Street or 176 Street. Financial securities will be collected to ensure that road damage is repaired.

It is anticipated that the filling and preloading of the site will take a minimum of eight months, but could take up to a year, depending on how long it takes the required settlement to be reached. Assuming an additional six months for the construction of on-site servicing and infrastructure, and a minimum of six months for house construction, the dwellings on the property could be constructed as early as two years from final adoption, particularly if all dwellings are constructed by the same developer. However, it is possible that individual house construction by individual owners and builders could take longer.

Geotechnical Issues

The applicant previously retained Levelton & Associates to conduct a geotechnical analysis of the site and a report was completed prior to the application being considered at Public Hearing. Further work has been undertaken, including additional site analysis and drill holes and an updated report has been submitted to the City. The report has verified that the original information is still correct and relevant. Finalization of this issue and all geotechnical requirements will be completed prior to final adoption of the By-law.

Elimination of East Property Retaining Wall

In response to the concerns raised at the Public Hearing by the adjacent property owner to the east (Gibbons), the retaining wall that was originally proposed along the east side of the subject site has now been eliminated. The lot grading of the site now proposes a tapering down of the lands on the east side to meet the existing grade of the neighbouring property to the east. Specific drainage measures have also been proposed along this edge to ensure all on-site drainage is fully contained. Specifically, the change involves reducing the amount of fill and increasing the dedicated portion of new road adjacent to the Gibbons property in order to provide sufficient space to provide a sensitive grading treatment, thus eliminating the retaining wall.

Proposed Subdivision Plan and Corresponding CD By-law Amendments

The proposed grading change to eliminate the retaining wall and provide additional road dedication has resulted in an adjustment to the original subdivision plan affecting the southeast portion of the site. The additional road dedication has resulted in a slight shift in the lot configuration; however, the subdivision pattern remains the same (Appendices "F" and "G"). The adjustment will result in all of the lots being slightly smaller; however, the previous lots were generally oversized, therefore the revised lots will still meet or exceed the minimum lot sizes prescribed in the CD By-law.

Additionally, setbacks are also required to be adjusted slightly due to the minor shift in the lot pattern resulting from the change to the subdivision plan noted above. The changes to the setbacks are considered minor, and the revised plan retains the integrity of the original view corridors created between lots for the benefit of the existing dwellings to the south on Delsey Place. Therefore, to achieve the adjustment to the setback requirements, Council approval is required to modify the CD By-law (No. 16353) by replacing Schedule "B" of the CD By-law (Appendix "H"). This amendment pertains to setbacks for principal buildings only, is agreeable to the owner, and does not affect use or density. As such, no additional Public Hearing will be required as a result of the amendment.

Comments from the Morgan Creek Committee of Concerned Residents

On January 8, 2008, staff met with five representatives from the Morgan Creek Committee of Concerned Residents (the "Committee"), as well as the applicant's consultants (Pacific Land Resource Group and Hub Engineering Inc.) to discuss the proposed amendment to the subdivision, as well as provide an update of the work

undertaken by the applicant since the Public Hearing and additional information, as documented in this report. The representatives included property owners on Delsey Place, immediately south of the subject property, and the owners of the adjacent property to the east (Gibbons).

In response to the January 8, 2008 meeting, a letter was submitted to the City by the Committee on January 10, 2008. The letter reiterated the concerns expressed previously during the application review process/public hearing process, and indicates that despite the additional information presented and the adjustments proposed to the lot grading and subdivision plan, the Committee remains opposed to the proposal for the following reasons:

- The site was historically designated in the Local Area Plan for approximately 10, one acre lots and, if not ALR, should be developed in this fashion;
- The applicant proposes an excessive magnitude of filling required for the site in order to achieve in-ground basements, which will result in a large volume of trucks, substantially raise the elevation of the proposed houses above existing grade level, and affect drainage;
- The residents feel that the estimated volume of trucks required to fill and develop the site is underestimated, and they express that this remains a major concern, including the route that trucks will be permitted to take to access the site, and whether the road beds can accommodate these trucks and the magnitude of existing traffic on these roads;
- The majority of the subject land proposed for development is within the floodplain, and the findings of Corporate Report No. C013 (Development Within Agricultural Floodplains) should be adhered to, and development in the floodplain prohibited;
- While the Gibbons acknowledge that the proposed modifications to eliminate the retaining wall and increase the road dedication represent improvements, they remain concerned about the proximity of new dwellings adjacent to their property to the east, particularly as these houses will be above the Gibbons' home;
- The ALR land swap solution had merit, but since the process was allowed to be voluntary, it is not surprising that no viable land swap options were found and questions remain about issues raised by the applicant in this regard, including economic value and suitability for land swap of each alternative site;
- Although drainage is expected to be addressed through engineering works, there is still concern about the impact of the development on drainage of the surrounding lands; and
- The duration of filling and development of the site is expected to be long, and would significantly impact the surrounding residents.

CONCLUSION

This report responds to Council's direction at the April 2, 2007, Public Hearing for staff to review a possible ALR land swap and possible drainage and flooding impacts. Additional work has also been provided by the applicant to address other issues raised at the Public Hearing, including geotechnical concerns, site filling and truck routing activities, and adjustment to the proposed lot grading and subdivision plan to eliminate the retaining wall originally proposed along the east property line.

As a result of this additional work, a corresponding amendment to the CD By-law is required to match the subdivision plan adjustment pertaining to building setbacks. This amendment does not jeopardize the Public Hearing process. Furthermore, additional requirements have been identified, including Restrictive Covenants to address drainage and flooding concerns, and completion of a truck route management plan for the site filling and construction program.

Staff has met with area residents to provide an update on the application. The residents continue to express concerns with the application, as documented in this report. Staff advise that the applicant has addressed the concerns to the best of their ability and, therefore, the application is recommended to proceed to Council for consideration of Third Reading of the By-law, as amended.

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Planning and Development

RCA/RD/saw

Attachments:

Appendix "A" - By-law No. 16353

Appendix "B" - March 12, 2007 Planning Report (including Appendix I & 2)

Appendix "C" - Sites considered as possible candidates for land swap

Appendix "D" - Consultant's Agricultural Land Swap Evaluation Summary

Appendix "E" - December 6, 2007 AAC Meeting Minutes

Appendix "F" - Original Subdivision Layout

Appendix "G" - Proposed Revised Subdivision Layout

Appendix "H" - Amended Schedule "B" to CD By-law (No. 16353) (Building Setbacks)