

Comments Regarding Planning Committee Decision on Rezoning - 266 and 270 Byron Ave.

I am very disappointed to find out that the Planning Committee has decided to recommend the application for Rezoning at 266 and 270 Byron Ave.

In my extensive response to the application in late July, I gave very clear reasons for rejection of the application, but in reading the Planning Committee's rationale for recommending it, the relevant comments in my submission are not referenced at all, which leads me to believe that the Committee either did not read my submission or simply decided to ignore it.

The entire rationale for recommending the Zoning By-Law Amendment hinges on two key items: a) its adherence to the requirements of the Provincial Policy Statement, and b) its alignment with the City of Ottawa Official Plan. In my initial response, I addressed both those items.

Rather than repeating what I have already contended, following is the excerpt from my submission that addresses those items:

Response to Part 4.1 – Provincial Policy Statement 2014 (PPS)

In this section, the applicants seek to justify the request for a Zoning By-Law Amendment by referencing various sections of the PPS (specifically sections 1.1.1, 1.3.2 and 1.3.3). In summarizing this section of the rationale, the applicants conclude that "The Subject Site is well suited for intensification. The proposed development is consistent with the policies of the Provincial Policy Statement."

In fact, the current structures as they stand today already meet and exceed the recommendations of the PPS. The original structure on this site that was demolished was a series of 3 attached row houses. The structures that replaced it contain 6 units, so occupancy has now doubled at this infill project, which should more than satisfy the requirements of the PPS.

In essence, the argument is being made by the applicants that a Zoning By-law Amendment is needed in order to satisfy the recommendations of the PPS, but since these requirements are shown to have already been met, the question really becomes "what degree of intensification is appropriate?", and this is where reference to the city's Official Plan is relevant.

It is important, as well, to keep in mind the following comments from Part III of the PPS ("How to Read the Provincial Policy Statement"):

"The Provincial Policy Statement recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld."

"...Other policies refer to planning objectives that need to be considered in the context of the municipality or planning area as a whole, and are not necessarily applicable to a specific site or development proposal."

Response to Part 4.2 – City of Ottawa Official Plan

Response to 4.2.1 - General Urban Area

The applicants comment that Policy 5 of Schedule B of the Official Plan states “The City supports intensification in the General Urban Area where it will complement the existing pattern and scale of development and planned function of the area.”

As I have already described, the city has demonstrated its support for intensification by granting a building permit to the applicants enabling construction of 6 units in place of 3.

The applicants also commented that “Allowing a low-rise apartment dwelling on the Subject Site is not out of character with the existing pattern and scale of development along this portion of Byron Avenue”. I would disagree with that statement.

The current structures on the Subject Site are clearly a full floor higher than the adjacent low-rise apartment buildings, so they fail the “scale” test.

I have attached a series of photographs on the following page showing other low-rise apartment buildings, not only on Byron Avenue, but also on streets to the interior of Byron Avenue. Without exception, they are all on a scale that is one floor less than the subject structures. The explanation is very simple. All of these make use of the basement level as a unit, enabling adherence to zoning requirements (maximum 3 units) and at the same time retaining a scale that is in proportion with surrounding buildings (only two floors added above basement level).

The applicants did have the option to build similar structures, using the basement level as an apartment, thereby requiring only two additional floors above it to meet the 3-units per building zoning requirement (which they currently have). This would truly have allowed the structures to “complement the existing pattern and scale of development...” Instead, the decision was taken by the applicants to build two much taller structures (one floor higher than others around them), leaving the ground floor vacant, which has now unfortunately lead to this Zoning By-Law Amendment application to permit a 4th unit at basement level.

All of this casts doubt on the validity of the two key items that the applicants (and now the Planning Committee) maintain justifies the Zoning By-Law Amendment.

Zoning By-Law Amendments, in my opinion, are a very serious matter. They have far-reaching and long-lasting implications on an entire neighbourhood. As I described in the above excerpt (and for which I provided many examples), the area along Byron Ave. for which this amendment is being sought is no different from so many other areas within the entire neighbourhood. Approval of this Zoning By-Law Amendment, without a doubt, will spawn a multitude of similar requests. Having set a precedent in this case, it would be difficult for the Planning Committee to then refuse other applicants who will use the same arguments. And even if Planning Committee rejects other applications, this precedent will carry considerable weight in any appeal to the OMB.

I sincerely hope that Planning Committee will re-consider a decision that will have long-term and regrettable consequences for years to come.