



TO: Mayor and Members of Council

FROM: Jim Baird, Commissioner of Development Services

PREPARED BY: Geoff Day, Planner - West Development District

DATE: September 15, 2009

RE: Implementing Zoning By-law Amendment
Application by Chak Cheng for a Zoning By-law Amendment to rezone
7165 Bayview Avenue to satisfy the conditions of land division to
facilitate the future development of the property for two single detached
dwellings
ZA 07 110055

On September 8, 2009, Staff advised Development Services Committee that Staff will report back on several matters raised at the meeting relating to the approval of the above noted zoning amendment application. The matters raised involved the following:

- 1.) Applicant and Staff informed the Committee that the side yard setbacks and height provisions in the draft by-law are under discussion;
- 2.) Committee requested that bird friendly design be considered in the design of the two future single detached dwellings;
- 3.) Tree planting to compensate for the removal of 5 trees on site; and,
- 4.) Potential increase in flooding

Development Standards

The proposed by-law provides for 1.8m side yard setbacks for the northerly parcel and 1.2m on the north side of the southerly parcel. The south side of the southerly parcel provides for a 3.0m side yard setback in order to protect for the required 3.0m access easement in favour of the Town.

Staff conducted a neighbourhood analysis as it related to the proposed severance and its potential effect on the surrounding neighbourhood. Staff confirm that the setbacks being proposed in the by-law are appropriate as they are consistent with side yard setbacks within the area. It should be noted that several of the proposed development standards in the site specific by-law (such as lot area, front yard setbacks and also side yard setbacks) exceed those of the Residential Third Density (R3) zone of the parent by-law applicable to the subject lands. The applicant is agreeable to the yard requirements in the site specific by-law.

At the meeting the applicant also spoke to the building height in the proposed by-law. However, this is no longer an issue as the height requirement has been removed from the proposed by-law

and the applicant will be complying with the maximum height restrictions of 9.8 metres for a pitched roof and 8 metres for a flat roof, as per the Town's infill housing by-law 100-90.

Bird Friendly Design

Staff have followed up with the applicant regarding Committee's comments on bird friendly design. The applicant has been directed to the "Bird Friendly Development Guidelines" / Fatal Light Awareness Program (FLAP). Staff have also attached to the Town's application database system (AMANDA) a "*caution*" on the subject property file. At the building permit stage, this "*caution*" will alert Planning Staff to initiate discussions with the owner/applicant in order to encourage building designs which will have regard for the inclusion of bird friendly glazing components. The lands are not within an area subject to site plan control for single detached dwellings.

Tree Removal

The Toronto & Region Conservation Authority has advised that pursuant to Ontario Regulation 166/06, at the building permit stage a TRCA permit is required. The TRCA will require a planting plan in accordance with the TRCA approved Native and Non-Invasive Plant Species List and include planting within the publicly conveyed 3 metre portion of the Environmental Buffer. On September 9, 2009, Staff received an email from the Owners agent committing to the replacement of each of the 5 trees removed as a result of the construction process. Staff have included this commitment into the same "*caution*" attached to the Town's application database system.

Flooding

As a condition of severance, the Committee of Adjustment has required that the owner provide a letter of undertaking which indicates that a Pre and Post development storm water runoff analysis in relation to the findings of the Town's Erosion Implementation Plan shall be conducted to the satisfaction of the Town of Markham and the Toronto and Region Conservation Authority. The Owner is undertaking this analysis to be submitted to the Town and TRCA in the near future.

Conclusion

Staff are of the opinion that that the matters identified by the Development Services Committee have been addressed and therefore recommend that the amending by-law proceed to enactment.

Attached is the implementing zoning by-law amendment to facilitate the severance of the property into two lots for the construction of two single detached dwellings.

EXPLANATORY NOTE

BY-LAW NO. 2009-XXX

A by-law to amend By-law 1767, as amended

Chak Cheng
7165 Bayview Avenue

Lands Affected

This proposed by-law amendment applies to a 0.59 hectares (1.46 acres) located on the east side of Bayview Avenue north of Steeles Avenue, municipally known as 7165 Bayview Avenue.

Existing Zoning

The property is currently zoned Greenbelt Residential (GR) by By-law 1767.

Purpose and Effect

The purpose of the proposed zoning by-law amendment is to rezone the subject property from Greenbelt Residential (GR) by By-law 1767 to Single Family Detached Dwelling Residential Third Density (R3), Open Space Environmental Buffer (O3) and Open Space (O1).

The effect of the proposed zoning by-law amendment will facilitate the division of land and development of two single detached residential dwelling units on two separate lots of record.

A by-law to amend
Zoning By-law 1767, as amended

THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

1. Zoning By-law 1767, as amended, be and the same is hereby further amended as follows:

Notwithstanding any other provisions of By-law 1767, as amended, the following provisions in this By-law shall apply to those lands shown on Schedule 'A' attached to this by-law. All other provisions of this by-law, unless specifically modified/amended by this by-law continue to apply to the lands subject to this by-law.

- 1.1 For the purposes of this By-law, the following definition shall apply:

OPEN SPACE means an area on a *lot*, unobstructed by buildings, used exclusively for landscaping.

2. By rezoning the lands shown on Schedule 'A' hereto from Single Family Dwelling Greenbelt Residential (GR) to:

Single Family Detached Dwelling Residential Third Density (R3)
Open Space - Environmental Buffer (O3); and,
Open Space (O1)

- 2.1 Zone Standards

The following specific zone standards apply to the Residential Third Density (R3) zone:

- a) Minimum *lot* area: - 800 square metres
- b) Minimum required *front yard*: - 14 metres
- c) Minimum required *interior side yards* for the northerly property: - 1.8 metres
- d) Minimum required *interior side yards* for the southerly property:
 - i) north side - 1.2 metres
 - ii) south side - 3.0 metres
- e) Minimum required *rear yard*: - 7.0 metres

- 2.2 Special Site Provisions

The following additional provisions apply to the Open Space - Environmental Buffer (O3) Zone:

- a) No part of the Open Space - Environmental Buffer (O3) Zone shall be covered by buildings or *structures*.

- b) Notwithstanding the provisions outlined in subsection 2.2a), a *deck* and associated steps or patio connected to the *main building* is permitted to encroach a distance of no more than 3.0 metres into the Open Space - Environmental Buffer (O3) Zone;

2.3 Open Space (O1) uses permitted

No person shall hereafter change the use or use land in an Open Space (O1) zone except for one (1) or more of the following uses:

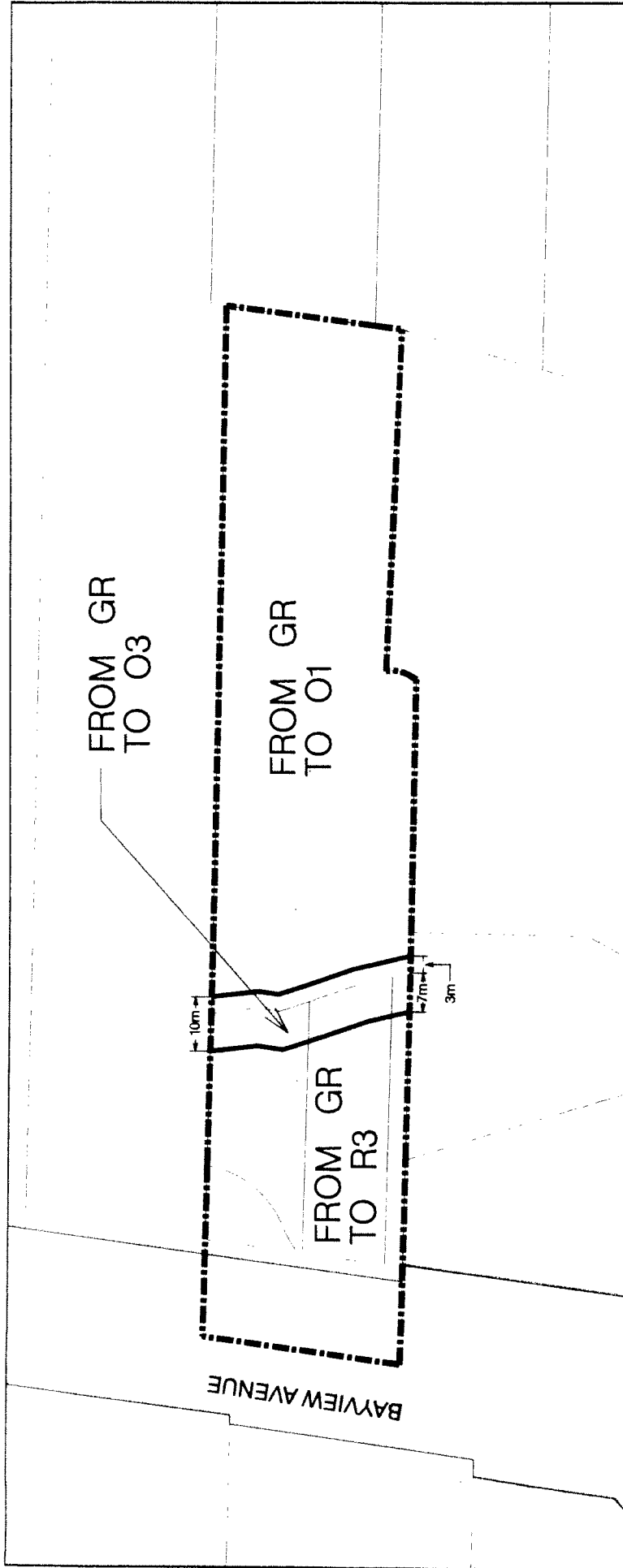
- *public* or private *parks*
- *public* conservation projects

3. All other provisions of By-law 1767, as amended, not inconsistent with the provisions of this by-law shall continue to apply.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
15TH DAY OF SEPTEMBER, 2009.

KIMBERLY KITTERINGHAM
TOWN CLERK

FRANK SCARPITTI
MAYOR



A BY-LAW TO AMEND BY-LAW 1767

DEVELOPMENT SERVICES COMMISSION

THIS IS SCHEDULE 'A' TO BY-LAW
PASSED THIS DAY 2009

MAYOR
CLERK

BOUNDARY OF AREA COVERED BY THIS BY-LAW

ZONE BOUNDARY

NOTE: 1) DIMENSIONS ARE IN METRES
2) REFERENCE SHOULD BE MADE TO
THE ORIGINAL BY-LAW LODGED IN
THE OFFICE OF THE CLERK

SCALE 1: N/A

- R3 THIRD DENSITY SINGLE FAMILY RESIDENTIAL
- GR GREENBELT RESIDENTIAL
- O1 OPEN SPACE
- O3 OPEN SPACE ENVIRONMENTAL BUFFER