

PUBLIC PARTICIPATION MEETING COMMENTS

3.3 PUBLIC PARTICIPATION MEETING – Application – 537 Crestwood Drive (Z-8915)

- *(Councillor S. Turner enquires, with respect to holding provisions, the land is designated as Urban Reserve which would then contemplate development at some point and if held as Reserve, thinking it needs to be evaluated at some point is what the Reserve piece is but it would be at some point site suitable for residential development or some form of development once the remediation activities had occurred at the aggregate site; the holding provisions that Ms. M. Campbell, Planner II, talked about it not being suitable at this point and that changes would need to be on the basis of studies in order to grant exemption from those separation distances; think we have used holding provisions in the past where minimum distance separations were required; thinking of things in agricultural minimum distance separations where a holding provision was put in place and that holding provision removal was contingent upon the minimum distance separation no longer being a factor in the development, this would have been along Woodhull Road or Westdel Bourne in the farm piece that they went through a couple of times when he was here; how is that dissimilar in this circumstance, does using a minimum distance separation and the provisions in this case, once those are satisfied, the holding provision can be removed or once a satisfactory study on slope stability is no longer a concern being provided to you, that at that point they would seek removal of the holding provision rather than outright refusal of the application.);* Mr. M. Tomazincic, Manager, Current Planning, responding that he believes that in that case the use has been deemed appropriate should the minimum distance separation issues go away; in this case he thinks it gets a little bit more complex because they are talking about the stability of the site and presuming that this site will be able to accommodate the proposed use and they just do not know that yet in terms of stability and noise and dust and the limits of the development as well; perhaps through a rezoning process, the setbacks they put in are not appropriate and the zoning will create a development envelope that might not be appropriate, where in the previous example, the development envelope was appropriate as soon as minimum distance separation issues go away; *(Councillor S. Turner indicating that the use of Urban Reserve for that parcel of land versus, for example, Environmental Review, and he would think Environmental Review would consider site hazards versus Urban Reserve which would contemplate at some point that gets converted to developable use could you talk a little bit about why it is parsed that way.);* Ms. M. Campbell, Planner II, responding that the intent for the Urban Reserve Zone is to allow for the comprehensive review of development potential in the future for these lands; in terms of the Environmental Review, that typically deals with natural features and natural hazards, in this case the slope stability hazard, which is one piece of this application, is actually not a natural hazard, but one that is created by the aggregate resource extraction that is happening adjacent to the lands so in this case the subject lands as well as the lands that are used as aggregate resource extraction are lands that would be developed through a future comprehensive review through a secondary plan process and at that time, it may be appropriate to put those lands into a zone that would permit development, it could be that these lands would go to an Open Space zone to recognize if there are hazards associated with it; the issue here is that they really do not have the studies to demonstrate how this particular subject lands will interact with the lands adjacent to it and how to mitigate any impacts from that aggregate resource extraction activity at this point in time.
- *(Councillor A. Hopkins indicating that there is the Byron Pit Secondary Plan; would these lands be taken into account through that process.);* Mr. M. Tomazincic, Manager, Current Planning, responding that he does not believe that to be the case and he does not think that it necessarily has to be the case; the

Secondary Plan for the Pits could think about the long-term vision for that site and a future site specific application on this site could think about how it integrates with that once they know what the future of the lands are; at this point, LaFarge still has a licence for that area and they are willing to continue to use that licence and have not given staff a reason to believe that they are not going to give up that licence any time soon so they have to proceed with it; that is a long way of saying that this site does not have to be part of the Secondary Plan but once they know what that Secondary Plan is they can start planning for the use of the site on a site specific basis.

- *Councillor M. van Holst enquires about once the neighbouring site is no longer being used for aggregate resources then those studies are no longer required, is that correct.*); Ms. M. Campbell, Planner II, responding that the site specific policies that would currently pertain to the subject lands may not then apply if there are not active resource extraction areas in proximity to the subject lands so it is one of those site specific policies that direct them to look at the impacts of noise and vibration where there is a resource extraction area or resource extraction operation in proximity to the subject lands.
- *(Councillor S. Turner indicating that he thinks that slope stability would still be an issue.)*; Ms. M. Campbell, Planner II, indicating that slope stability came out of the 2012 application and that was a concern that is not specifically identified by the site specific policy but was an outcome or an issue of the 2012 application that dealt with the easterly portion of the subject lands.
- *(Councillor M. van Holst indicating that seems to be the biggest issue; anyone purchasing this property and if they did not do it sight unseen they would have a pretty good idea that it might be dusty and noisy just from seeing the gravel pit right beside them but the fact that the slope may be unstable, of course, that could produce cracking or problems with the house, if they were to allow this to go forward and damage were to be done to the property because of the instability of the slopes would we be liable in a way for that decision.)*; Mr. M. Tomazincic, Manager, Current Planning, does not believe that they are qualified to answer that question but perhaps if Legal can provide an opinion on that, that would probably be more helpful; *(Councillor S. Turner indicating that he does not see Legal here right now and he imagines that would be a question that they can hold until a subsequent time.)*
- Jay McGuffin, Vice-President, Principle Planner, Monteith Brown Planning Consultants – advising that, further to the correspondence that he circulated earlier this afternoon on behalf of the applicant who is here with him this evening, Mr. Starcevic, he is the owner of the remaining portion of the property and this is the lot that he is looking to construct his retirement dwelling onto so further to the Councillors last comments with regards to being aware of the existing situations he can assure the Committee that Mr. Starcevic is very actively aware of the situation; as mentioned, the request is to rezone the property from Urban Reserve 1 to R6-2 Special Zone and that is the same zone that applies to the remainder of this particular vacant land condominium so that includes all the lands to the east that are included in this proposed three unit condominium development; indicating that, as a result of recent conversations with City Staff, they have proposed the same two holding provisions that were recently applied to those lands to the east of this particular site being units 1 and 2, and that is the H-145 and H-146 dealing with the requirements for geotechnical reports and noise studies to be completed to ensure that the site is appropriate for development; advising that what was not mentioned was the pre-consultation meeting that was held back in March, they had a pre-consultation meeting with a different Planner and kudos to Ms. M. Campbell, Planner II, she has come on to a rather lengthy planning process so she is fairly new to what has gone on and she has developed a very comprehensive report based on the previous happenings of this development application since it first started in their court in 2010 but actually predates that by many years as well; stating that there has been a lot of work underway and their client has been patiently waiting for events

that are occurring within the Byron Gravel Pit to subside to such a point that he is able to proceed; advising that what is important about the March meeting was anecdotally, their client had learned or had been told, informed by others that there had been a sale of the Pit lands to a third party and that as part of Secondary Plan work that the City was undertaking, that the Pit operations were ceasing; in attempts to clarify that and get commentary, he contacted representatives from LaFarge; noting that his first point of contact was a representative from the actual Pit and he was informed that what was occurring on the site had, in fact, started to ramp down and that activities had proceeded away from the subject lands but in terms of an official report, he would have to speak to someone higher up; advising that they did have conversations via e-mail and telephone with another gentleman, whose last name escapes him, his first name is Luke, he is the same individual who has made correspondence on behalf of LaFarge to the City and identified that the only information that he could provide him was the licence for the Pit includes extraction within fifteen meters of the boundary of the licence; of interest to that, he has provided some aerial photography that shows various areas around the various Pits that are licenced within the Byron Gravel Pit that identify numerous developments that are within fifteen meters of the limit of the Pit so clearly, there are areas of the Pit where development has been permitted historically to occur within close proximity to what would be a fifteen meter distance from the Pit; with regard to their previous studies, the most difficult component was identifying for their noise consultants where the active area of the Pit was and this was the area that the noise consultants were looking for in terms of being able to define their acoustic study to understand what the limits of noise exposure would be to effectively provide for recommendations on mitigation; advising that that information has never been made available to them; they have spent since 2010, numerous times trying to get information from the Ministry of Natural Resources, LaFarge and City staff to no avail, they have been provided copies of a remediation plan that were prepared as part of the former Area Plan which identified the remediation into essentially grassed slopes, a large recreational lake and that was it, that was the only documentation that he is aware of their office receiving based on those enquiries; indicating that, back in March, they met with Planning staff, it was Mr. M. Corby, Senior Planner, at the time who had carriage of the pre-consultation and there was no request for them to provide any additional studies other than those that had been prepared for previous applications on the property; noting that was a positive outcome, they were; however, asked to provide mapping of any of the active Pit licences within the area; noting that that mapping was provided and it was not until sometime in the summer that they were contacted by Planning staff to indicate that it would be required that they would have to do additional study or that they could contemplate a holding provision; stating that the purpose of the planning study had contacted them was that prior to processing the application they wanted to give the applicant the opportunity to withdraw the application and save his application fees; giving that the applicant is looking at retiring in this location he was desirous of proceeding on the basis of providing holding provisions similar to the first application round that was approved in 2012; one of the other things of significance that had occurred was when those first decisions were made in 2012, there was a berm that was situated on his clients' property at the west end in the location where the proposed dwelling is to occur; that berm was under an easement in favour of LaFarge and that easement expired and several years ago was removed by LaFarge; presumably, any noise attenuation that was provided by that berm was no longer required as part of the activities occurring within the Pit because that berm has been removed and is no longer in existence; that additional information together with the information that Mr. Starcevic had heard through the community led him to believe that there was now opportunity to construct; still they were not able to get any specific information to undertake any technical studies to support the application at this point because they still do not know where active extraction

is occurring and, as a result, what they have requested is they apply the same two holding provisions that were applied to the lands of Lots 1 and 2 previously to be applied to Lot 3; pointing out the difference now, as compared to back in 2011 and 2012 is that when planning staff were considering the redesignation of the property and the rezoning of the property as a whole, they redesignated the entirety of the subject property residential but they only zoned the front two lots for residential leaving the westerly lot in Urban Reserve; their understanding at that time was that was because there was a Commissioners Road Realignment Study that was about to begin and was going to determine whether or not the westerly portion of their clients' land was going to be required for part of that realignment so Mr. Starcevic parked his application and waited until the completion of that Environmental Assessment work was done; indicating that you will see in the reporting that he submitted this afternoon an excerpt from that report that identifies the conclusions from the Environmental Assessment that illustrates the location of that preferred design solution for the Commissioners Road Realignment and that it does not actually affect any of Mr. Starcevic's lands; with that information they believe that the application of the holding provisions is consistent with the Provincial Policy Statement, does serve to protect the aggregate resource and extraction, does conform to the policies of the Official Plan and is consistent with the general intent and nature of the Zoning By-law and they would ask that the application be approved with holding provisions.