

**Report to
Rapport au:**

**Council
Conseil**

8 November 2017 / 8 novembre 2017

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**Submitted by
Soumis par:
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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2017-CCS-OCC-0017

**SUBJECT: SUMMARY OF ORAL AND WRITTEN PUBLIC SUBMISSIONS FOR
ITEMS SUBJECT TO BILL 73 'EXPLANATION REQUIREMENTS' AT THE CITY
COUNCIL MEETING OF OCTOBER 25, 2017**

**OBJET : RÉSUMÉ DES OBSERVATIONS ORALES ET ÉCRITES DU PUBLIC SUR
LES QUESTIONS ASSUJETTIES AUX EXIGENCES D'EXPLICATION AUX TERMES
DE LA LOI 73 EXAMINÉS À LA RÉUNION DU CONSEIL DU 25 OCTOBRE 2017**

REPORT RECOMMENDATION

That City Council approve the Summary of Oral and Written Public Submissions for items considered at the City Council Meeting of October 25, 2017 that are subject to the 'Explanation Requirements' of Bill 73, the *Smart Growth for Our Communities Act, 2015*, as described in this report and attached as Document 1.

RECOMMANDATION DU RAPPORT

Que le Conseil municipal approuve le résumé des observations orales et écrites du public sur les questions assujetties aux exigences d'explication aux termes de la loi 73, la Loi de 2015 pour une croissance intelligente de nos collectivités, qui ont été étudiées à la réunion du Conseil du 25 octobre 2017, comme l'énonce le document 1 et le décrit le présent rapport.

EXECUTIVE SUMMARY

This report was prepared pursuant to the process approved by City Council on November 9, 2016 to address Bill 73, the *Smart Growth for Our Communities Act, 2015*, which amended the *Planning Act* such that municipalities are required to explain the effect of public input on planning decisions.

At its meeting of October 25, 2017, City Council considered one planning application for which written and/or oral submissions were received after publication of the staff report:

1. Zoning By-law Amendment – 266 and 270 Byron Avenue (ACS2017-PIE-PS-0111)

A 'Summary of Written and Oral Submissions' for this application is attached as a supporting document to this report. Council considered all written and oral submissions received prior to Council consideration of this matter in making its decision on this matter.

SOMMAIRE

Le présent rapport a été préparé conformément au processus approuvé par le Conseil municipal le 9 novembre 2016 en vue de répondre aux exigences de la loi 73, la Loi de 2015 pour une croissance intelligente de nos collectivités, modifiant la Loi sur l'aménagement du territoire de telle sorte que les municipalités doivent expliquer les répercussions des commentaires du public sur les décisions d'urbanisme.

Lors de sa réunion du 25 octobre 2017, le Conseil municipal a examiné une demande d'aménagement pour laquelle il a reçu des observations orales ou écrites suivant la publication du rapport du personnel :

1. Modification au Règlement de zonage – 266 et 270, avenue Byron (ACS2017-PIE-PS-01111)

Un « Résumé des observations orales et écrites » pour cette demande est soumis en pièce jointe. Le Conseil a pris connaissance de toutes les observations orales et écrites reçues avant son examen afin d'éclairer son décision.

BACKGROUND

Effective July 1, 2016, provisions of Bill 73, the *Smart Growth for Our Communities Act, 2015*, took effect to amend certain Subsections of the *Planning Act* such that municipalities are required explain the effect of public input on planning decisions. Generally, the legislation requires City Council to ensure that a written Notice of its decision is given in the prescribed manner, and that this Notice contain a “brief explanation of the effect, if any, that the written and oral submissions ... had on [Council’s] decision.” Oral submissions include the public delegations that appear at Committee, and written submissions include any that were provided formally to Council between the date a report is published in the Committee agenda and the date of Council’s decision.

The legislation applies to the following Subsections of the *Planning Act*:

| Subsections | Related Matters |
|---------------------------------|-------------------------|
| 17(23)-(23.2), 17(35)-(35.2) | Official Plan |
| 22(6.6)-(6.8) | Official Plan |
| 34(10.9)-(10.11), 34(18)-(18.2) | <i>Zoning By-laws</i> |
| 45(8)-(8.2) | Committee of Adjustment |
| 51(37)-(38.2) | Plan of Subdivision |

| Subsections | Related Matters |
|---------------|-----------------|
| 53(17)-(18.2) | Consents |

In anticipation of the legislation coming into effect, City Council, at its meeting on 22 June 2016, passed Motion No. 34/7 to adopt an interim practice to ensure the City's compliance with these particular new Bill 73 requirements, with the intent of adopting a new process as part of the Mid-term Governance Review later that year.

On November 9, 2016, City Council considered the report titled, "2014-2018 Mid-term Governance Review" (ACS2016-CCS-GEN-0024), and approved the following revised process to ensure the City's compliance with these particular new Bill 73 requirements:

1. Staff reports to Planning Committee and Agriculture and Rural Affairs Committee with respect to affected planning matters include the following recommendation:

That Committee approve the Consultation Details Section of this report be included as part of the 'brief explanation' in the Summary of Written and Oral Public Submissions, to be prepared by the City Clerk and Solicitor's Office and submitted to Council in the report titled, "Summary of Oral and Written Public Submissions for Items Subject to Bill 73 'Explanation Requirements' at the City Council Meeting of [Date of Council meeting at which the item is considered]," subject to submissions received between the publication of this report and the time of Council's decision";

2. Following Council's decision with respect to the matter, Clerk's staff, in consultation with the relevant Committee Chair and Legal shall prepare the report titled, "Summary of Oral and Written Public Submissions for Items Subject to Bill 73 'Explanation Requirements' at the City Council Meeting of [Date of Council meeting at which the item is considered]." This report would include information with respect to all items considered at the Council meeting that were subject to the relevant Bill 73 provisions. For each item included in the report, a 'Summary of Written and Oral Submissions' would be attached as a supporting document. Each 'Summary of Written and Oral Submissions' would incorporate the information above and other submissions that were received in advance of Council's decision;
3. The above-noted report would be placed on the Bulk Consent Agenda for the next City Council meeting. As there is a requirement that Notice of decision be circulated within 15 days after a Council decision, and given that the Notice would typically be circulated before the next Council meeting, the Notice would be circulated indicating that the 'Summary of Written and Oral Submissions' for the matter was subject to Council approval.

This report was prepared pursuant to the process approved by City Council on November 9, 2016, and includes information with respect to all items considered at the Council meeting of November 23, 2016, that were subject to the relevant Bill 73 provisions. A 'Summary of Written and Oral Submissions' is attached as a supporting document for each item.

As noted above, there is a requirement that Notice of Decision be circulated within 15 days after a Council decision. Given that the Notice is typically circulated before the next Council meeting, the Notice is circulated indicating that the 'Summary of Written and Oral Submissions' for the matter is subject to Council approval.

DISCUSSION

City Council, at its meeting of October 25, 2017, considered one item that is subject to the Bill 73 'Explanation Requirements' described above. These items are as follows:

Planning Committee Report 52A

1. Zoning By-law Amendment - 266 and 270 Byron Avenue (ACS2017-PIE-PS-0111)

RURAL IMPLICATIONS

There are no rural implications associated with the report recommendations to approve the summary of public submissions.

CONSULTATION

The consultation undertaken with respect to the above-noted planning application is contained within the original staff report considered by Committee and Council.

COMMENTS BY THE WARD COUNCILLORS

The Ward Councillor's comments were contained in the original report considered by Committee and Council.

ADVISORY COMMITTEE(S) COMMENTS

This section is not applicable to this report.

LEGAL IMPLICATIONS

The legal implications with respect to the planning application described in this report is contained in the original report considered by Committee and Council.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications associated with the report recommendation.

FINANCIAL IMPLICATIONS

The financial implications with respect to the planning application described in this report are contained in the original report considered by Committee and Council

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with the report recommendation.

TERM OF COUNCIL PRIORITIES

This report addresses the Governance, Planning and Decision-making Term of Council Priority.

SUPPORTING DOCUMENTATION

Document 1 – Summary of Written and Oral Submissions – Zoning By-law Amendment – 266 and 270 Byron Avenue (ACS2017-PIE-PS-0111)

DISPOSITION

This report will be placed on the Bulk Consent Agenda portion of the City Council Agenda for Council's consideration and approval at its meeting of November 8 2017.

Summary of Written and Oral Submissions

Zoning By-law Amendment – 266 and 270 Byron Avenue (ACS2017-PIE-PS-0111)

In addition to those outlined in the Consultation Details section of the report, the following outlines the written and oral submissions received between the publication of the report and prior to City Council's consideration:

- **Number of delegations at Planning Committee: 1**
- **Number of Submissions received by Planning Committee between 3 and 25 October 2017: 3**
- **Primary arguments in support**
 - A low rise apartment building is an appropriate use for this site, which is in a desirable location, on the edge of an established community. This form of housing provides a buffer between collector/arterial streets and interior neighbourhoods.
 - Immediately to the west there are three legal non-confirming low rise apartment buildings, which have six to 12 units, and this proposal would finish off the block.
 - This is a discrete form of intensification, where one or two units are added to an existing building and the change cannot be perceived from the street.
 - The reason that small builders proceed in this manner, building first and seeking site plan approval, minor variances and/or zoning amendments to add additional units at a later date, is because those processes frequently incur long delays and are costly, and most small builders cannot afford the associated carrying costs. Instead, they build three unit buildings, generate revenue and then apply for the required approvals for the desired fourth unit.
- **Primary concerns and arguments in opposition**
 - There is little certainty or predictability with respect to planning decisions and adherence to planning processes and procedures in Westboro.
 - Since the building permit for the existing building was for 3 units only, the City should be inspecting the units to see to what extent the building permit was actually followed. This type of inspection should be a standard requirement in these types of situations as it would serve to identify those developers who were seeking to truly add a basement unit after the fact and those developers who merely seek approval for an already constructed basement unit which they never

had approval to build in the first place. It would also give the City at least an opportunity to earn some revenue by fining developers who do not follow their building permits and the approved zoning.

- The method by which the builder is seeking rezoning to allow for a basement is a gross violation of the normal approval process, regardless of whether a fourth unit meets planning principles or not. The final zoning for a new building should be decided before the developer is given their building permit and developers should have to build to that zoning.
- It is unclear what the final parking provisions for the building will be for each unit and whether the site plan has been followed.
- The owner should be required to construct a solid fence along the back of the 266/270 Byron in order to minimize the impact of the car lights on neighbouring homes on Wesley Avenue.
- The rationale that the zoning amendment should proceed in order to satisfy the recommendations of the Provincial Policy Statement (PPS) does not stand up because the existing building already meets those requirements.
- The rationale that the zoning amendment should proceed because it aligns with the City's Official Plan is not justified because the City has demonstrated its support for intensification by granting the original building permit to the applicants enabling construction of 6 units in place of 3 (attached row houses). Further, the assertion that a low-rise apartment dwelling is not out of character with the existing pattern and scale of development in the area is inaccurate because the current structure is a full floor higher than the adjacent low-rise buildings.
- Approval of this zoning amendment would likely set a precedent and lead to many similar requests in the neighbourhood which would be difficult to contest if the same rationale is applied. This would lead to long-term and regrettable consequences for the area.
- This is a prime example of either "poor planning" or "dishonest development" since it is hard to believe that the developers did not intend to add the 4th unit all along. They just finished this project this year.
- The neighbourhood has been disturbed by construction and noise pollution over the past two years, during which the activity regularly spilled over to Kensington, since there is no parking on Byron, adding to congestion and parking hazards. The construction also led to a loss of heritage trees behind the abutting property.

➤ The staff responses to public feedback (Document 3- Consultation Details) were disappointing and seemed dismissive.

- **Effect of Submissions on Planning Committee Decision:**

Debate: The Committee spent 23 minutes on this item.

Vote: The item was CARRIED as presented.

- **Effect of Submissions to both committees on Council Decision:** Council considered all written and oral submissions in making its decision and CARRIED this item as presented.