

TO: CITY MANAGER

2001 AUGUST 22

FROM: DIRECTOR PLANNING AND BUILDING

**SUBJECT: REZONING REFERENCE #01-20
3115 BAINBRIDGE AVENUE
RESPONSE TO DELEGATION POINTS**

PURPOSE: To respond to the points raised by the delegation appearing at the 2001 August 13 Council meeting.

RECOMMENDATION:

1. **THAT** this report be received for information purposes.

R E P O R T

1.0 BACKGROUND INFORMATION:

- 1.1 On 2001 July 23, a report on the subject rezoning was tabled by Council pending the appearance of the applicant as a delegation to Council. On 2001 August 13, the applicant for the subject rezoning appeared before Council and raised a number of points regarding his rezoning application. Council subsequently directed staff to respond to the points raised by the delegation. This report is in response to that request.

2.0 GENERAL DISCUSSION:

- 2.1 The applicant raised two primary points regarding his application for rezoning. The first dealt with the accuracy of portraying the area as being homogeneous in terms of land uses and housing stock. The second point raised an apparent contradiction in the Zoning Bylaw in respect of the computation of gross floor area, and specifically instances where accessory buildings are included in the calculation.
- 2.2 It is acknowledged that the area immediately surrounding the subject site does vary, to some extent, with respect to housing stock/character and the proximate location of some industrial uses. However, it was noted in the 2001 July 23 report to Council that the subject property is on the edge of the Government Road neighbourhood (R1 District), which is homogeneous. By virtue of the subject property being on the edge of this neighbourhood, some variance in uses and housing stock can be expected. The issue, therefore, involves the erosion of the neighbourhood's edges to the point where its essential character is altered. While it can be

argued that a garden shed of modest size may not be a specific threat to the character of the neighbourhood, it is believed that a successful R3a District spot zoning application could be a precedent for others to follow which may encroach further into this Government Road neighbourhood.

- 2.3 An apparent contradiction in *Section 6.20* of the Zoning Bylaw was raised which deals with the computation of gross floor area, and specifically referred to subsections (2) and (3) which address accessory buildings in the calculation of gross floor area. While the wording of the two subsections may appear confusing, there is no substantial contradiction between them.

Section 6.20 (2) generally refers to the inclusion of accessory buildings, except those used for parking, in the gross floor area calculation in all zoning districts other than single-family zoning districts; whereas *Section 6.20 (3)* refers to accessory buildings being included in the gross floor area calculation for single-family districts. In other words, *Section 6.20 (2)* deals with computation of gross floor area in industrial, institutional, commercial, agricultural and multiple-family residential districts, and *Section 6.20 (3)* refers to gross floor area computations for single-family districts, notwithstanding the R6 Residential, R7 Mobile Home Park, and R8 Residential Districts. Therefore, there is no contradiction between the two subsections, as they apply to different zoning districts.

- 2.4 The applicant also touched on the development rights afforded to him under *Section 6.11(a)* of the Zoning Bylaw which he felt entitled him to an exemption of the required lot width under the R1a category. This section provides exemptions to lot area and lot width requirements for single-family residential lots which were created and registered in the Land Registry Office on or before 1978 January 01. This exemption permits an applicant to redevelop under existing zoning (R1) if the minimum lot area and lot width requirements were not satisfied. It, however, does not entitle the applicant to a rezoning to another single-family residential district or for a sub-category of a district, for which the applicant's property has insufficient lot width. Therefore, *Section 6.11(a)* does not entitle the applicant to a reduced lot width requirement under R1a by virtue of his lot having been created prior to 1978 January 01.

- 2.5 It is noted that the primary purpose of the subject rezoning application is to legalize works completed without the benefit of municipal approvals. This Department would contend that it is inappropriate to rezone land solely for the purpose of circumventing enforcement of the Zoning Bylaw.

3.0 CONCLUSION:

This report responds to the points raised by the applicant of the subject rezoning at the 2001 August 13 Council meeting. In general, it was noted that the subject site is located on the edge of the Government Road residential neighbourhood, which is considered a homogeneous area. It was also noted that the edges of such a neighbourhood requires a degree of protection against the encroachment of and trend to permit ad hoc lot-specific spot rezonings. Concerns regarding an apparent contradiction in the Zoning Bylaw were addressed, and it was concluded that no contradiction is present based on the fact that the two sections in question (*Section 6.20 (2) and (3)*) pertain to different zoning districts.

In light of the foregoing, staff's recommendation outlined in the 2001 July 23 report, that Council not give favourable consideration to the subject rezoning application, still applies.

This is for the information of Council.



I. S. Belhouse
Director Planning and Building

EK:gk

cc: Director Engineering
City Clerk
Chief Building Inspector

