

COMMITTEE OF THE WHOLE MAY 3, 2004

**ZONING BY-LAW AMENDMENT FILE Z.03.055
BUNBURY CANADA INC.
REPORT #P.2003.65**

Recommendation

The Commissioner of Planning recommends:

THAT Zoning By-law Amendment File Z.03.055 (Bunbury Canada Inc.) BE APPROVED and that the site-specific implementing by-law:

- a) permit the existing tennis court, retaining wall, cabana and frame structure within the OS5 Open Space Environmental Protection Zone; and,
- b) require the lands within the OS5 Open Space Environmental Protection Zone be left to re-naturalize, once each or all of the structures cease to exist.

Purpose

On July 30, 2003, the owner submitted an application to amend the Zoning By-law to legalize the existing cabana shed, wood deck, retaining wall and tennis court in the OS5 Open Space Zone portion of the lot.

Background - Analysis and Options

The site is located northwest of Teston Road and Bathurst Street, being Lot 2 on Plan 65M-2138, and Block A on Plan M-1731 (38 Silver Fox Place), in Lot 29, Concession 2, City of Vaughan.

The application proposes to legalize structures (tennis court, retaining wall, framed structure, and cabana) which have existed within the OS1 (now OS5) Zone since 1989. Although not permitted in the Open Space Zone, these structures were constructed without building permits on lands which the applicant purchased from the City of Vaughan. There is no further development proposed by this application.

The lands were designated "Estate Residential" by OPA 600 and zoned RR Rural Residential and OS1 Open Space Conservation Zone by By-law 1-88, subject to Exceptions 9(322) and 9(173). On June 23, 2003, Council adopted OPA 604 and By-law 242-2003, redesignating the lands to "Countryside Area", and rezoning the lands to OS5 Open Space Environmental Protection Zone. OPA 604 and By-law 242-2003 satisfied the requirements to bring Vaughan's Official Plan and Zoning By-law into conformity with the Oak Ridges Moraine Plan, and are presently awaiting final Provincial approval. The surrounding land uses are as follows:

- North - residential (RR Rural Residential Zone)
- South - residential and open space (RR Rural Residential and OS5 Open Space Environmental Protection Zone)
- East - Silver Fox Place; residential (RR Rural Residential Zone)
- West - Open Space (OS5 Open Space Environmental Protection Zone)

On August 22, 2003, a notice of public hearing was circulated to all property owners within 120m of the subject lands. To date, no comments have been received.

The recommendation of the Committee of the Whole at the Public Hearing on September 15, 2003, to receive the public hearing and forward a comprehensive report to a future Committee meeting, was ratified by Council on September 22, 2003.

Official Plan

The subject lands are designated "Countryside Area" and are adjacent to a "Natural Core Area", designated by the Oak Ridges Moraine Conservation Plan (Ontario Regulation 140/02) and OPA 604 (adopted by Council on June 23, 2003, subject to final approval by MMAH). To conform to the sections of the ORMCP that relate to the "Countryside Area", a supporting submission addressing the applicable provisions of the ORMCP accompanied the application.

Oak Ridges Moraine Conformity

The subject lands are located on the Oak Ridges Moraine, within the "Countryside Area" designation, abutting the "Natural Core Area" designation. The Natural Heritage Evaluation details the key natural heritage features and hydrologically sensitive features within the adjacent "Natural Core Area", including a Life Science ANSI and Significant Woodlands. The Oak Ridges Moraine Conservation Plan requires that within the "Countryside Area" and "Natural Core Areas", that a 30m minimum vegetative protection zone is required around all Key Natural Heritage Features and Hydrologically Sensitive Features. The structures are all located within the 30m vegetative protection zone.

The natural heritage evaluation confirms that any impacts associated with the structures occurred upon construction in 1989, and that the local ecosystems have since stabilized. It further notes that the operational use of the tennis court and cabana is seasonal, with no discernable effects to the adjacent natural features.

Zoning

The subject lands are zoned RR Rural Residential Zone and OS1 Open Space Conservation Zone by By-law 1-88, subject to Exceptions 9(322) and 9(173). The site-specific exception permits all buildings and structures to be erected, maintained and replaced in the areas shown as "Building Envelope" on the site-specific schedule. The OS1 Zone portion has since been rezoned to OS5 Zone by By-law 242-2003, the Oak Ridges Moraine Conformity By-law.

The proposed zoning amendment is required to maintain and legalize the existing structures outside of the permitted building envelope. Any subsequent uses proposed within the OS5 Zone (formally OS1 Zone), not permitted in the zone provisions, will require further amendments to the zoning by-law and an Oak Ridges Moraine Conservation Plan conformity report. The TRCA has requested that a provision be included in the by-law to provide for the re-naturalization of the OS5 lands once the amenity areas cease to exist.

Departmental Comments

The Engineering Department would like to confirm that the subject lands are outside of the floodplain, however the TRCA does not have any current flood plain mapping for the area, and have noted that a flood study is not required for this application. Based on the information available, the Engineering Department does not recommend rezoning the open space lands.

Planning Considerations

Given that these structures have existed since 1989, prior to the enactment of the Oak Ridges Moraine Conservation Plan, and given that the Natural Heritage Evaluation confirms that these structures are not adversely affecting the ecological integrity of the Oak Ridges Moraine, it is considered appropriate to proceed with the zoning amendment to legalize these structures within the OS5 Zone.

Relationship to Vaughan Vision 2007

This staff report is consistent with Vaughan Vision 2007, which encourages managed growth through the implementation of OPA 600.

Conclusion

Staff have reviewed the proposed zoning amendment application in accordance with the policies of OPA 600, as amended by OPA 604, and the requirements of By-law 1-88. Staff are satisfied that the proposed zoning amendment to permit the existing tennis court, retaining wall, framed structure and cabana within the OS5 Zone is appropriate. The by-law will not provide for any further development. In accordance with the request by TRCA, it is also recommended that the by-law include a requirement that should any of these uses cease to exist, the lands shall be left to re-naturalize.

For these reasons, Staff recommends approval of the zoning amendment application. Should the Committee concur, the recommendation in this report can be adopted.

Attachments

1. Location Map
2. Site Plan

Report prepared by:

Margaret Holyday, Planner 1, ext. 8216
Arto Tikiryan, Senior Planner, ext. 8212

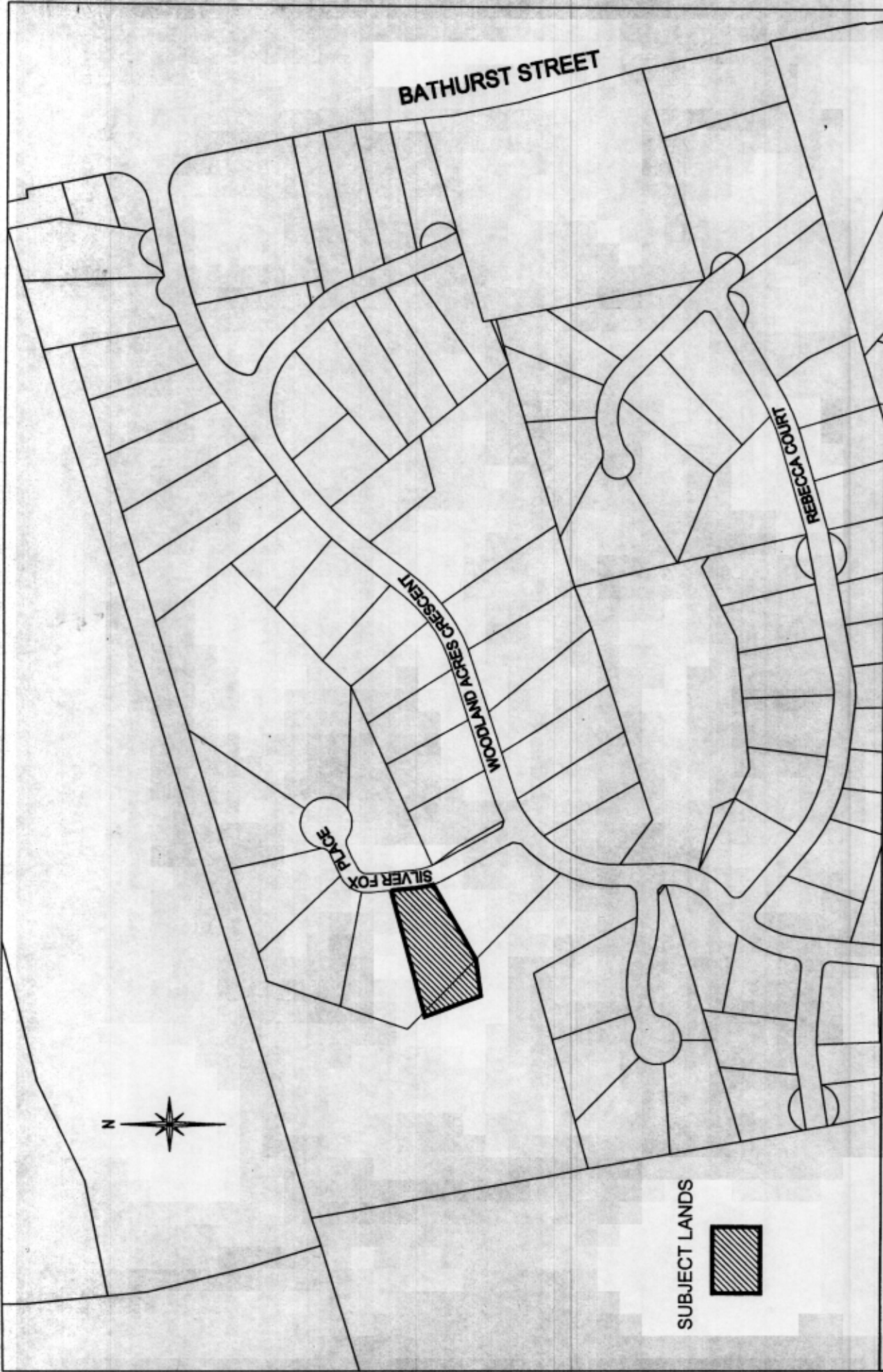
Respectfully submitted,

JOHN ZIPAY
Commissioner of Planning

MARCO RAMUNNO
Manager of Development Planning

/CM

R:\SER\WORKING\HOLYDAYM\Bunbury Canada.CW.dot



SUBJECT LANDS



Location Map

Part Lot 29,
Concession 2

APPLICANT:
BUNBURY CANADA INC.

N:\P\7\1 ATTACHMENTS\7.1.03.055

City of Vaughan

Community Planning Department

Attachment

FILE No.:
Z.03.055

Not to Scale

August 15, 2003

1



OS1

RR

LOT 3
P.I.N. 03342-0146

REGISTERED
LOT 2
P.I.N. 03342-0145

REG'D PLAN M-1731
BLOCK A
P.I.N. 03342-0141

PART 1
PLAN 65R-13495
P.I.N. 03342-0145

PLAN 65M-2138

LOT 1
P.I.N. 03342-0144

RR

OS1

SUBJECT LANDS

SILVER FOX PLACE
(BY REGISTERED PLAN 65M-2138)
P.I.N. 03342-0222

NORTHEAST CORNER LOT 2
RETD PLAN 65M-2138

LOT 4
C
LOT 3

Site Plan

Part Lot 29,
Concession 2

APPLICANT:
BUNBURY CANADA INC.

M:\UPTV ATTACHMENTS\17\03.055

City of
Vaughan

Community Planning Department

Attachment

FILE No.:
Z.03.055

Not to Scale
August 15, 2003

2