

Council delays decision on trees dividing southeast neighbourhood

By Brock Weir

A southeast Aurora neighbourhood will have to wait at least another week to learn the fate of three mature trees that have become a lightning rod of debate.

Councillors voted last week to delay making a decision on three trees on a property on Longthorpe Court. Discussion over the trees have been ongoing at Town Hall since early September after a property owner asked for Council's approval in cutting down and replacing the trees to accommodate grading and draining issues on the lot.

Neighbours argue, however, the trees were a selling point, noted in the neighbourhood's subdivision agreement.

Prior to last week's Council meeting, a report from Warren Mar, Solicitor for the Town of Aurora, came forward recommending a delay until the October 8 pending a further report. This would cover compiling all the issues together for Council to consider, including relevant sections of the subdivision agreement, enforcing the terms of a subdivision agreement.

Mr. Mar elaborated that on further consideration of the agreements and restrictions put on this land, listing the trees in the subdivision agreement was not "intended to make any guarantees that the trees would stay in perpetuity."

"I think the relevant sections should be put forward to Council so they can understand the reality of what was being protected here," he said. "I understand there has been a lot of discussion about where the trees aren't protected and if they are afforded some kind of protection. They weren't particularly. That information seems to be a bit lost in the discussion because the subdivision agreement is in front of Council."

Councillors voted in favour of holding their decision 5-4.

Among those voting in favour of deferring the decision to next Tuesday was Councillor John Abel, who said Council needs to understand everything from a legal perspective before proceeding in either direction. "My problem was we had people coming forward who said they bought their home with a clause saying those trees were going to be there. I felt we were putting the Town at risk. It has since come to my attention that that might not be the case.

"I can't hold the development of this property hostage. It is not fair and doesn't make sense. If there is no reason [the Town might be at risk for allowing the trees to be cut] I think we should allow the owner to proceed."

Voting against the delay for a final decision, however, were Councillors Chris Ballard, Evelyn Buck, Wendy Gaertner, and Sandra Humfries. While they all voted no, their reasons for doing so were very far apart. For Councillor Gaertner, for instance, it was a matter of fairness for the surrounding residents and mistakes made by the developer that are outside Council's responsibility.

"The way I see it, it is the wrong house built on that lot," she said. "Surely the developer or his agent would know that. Now it has put Council in a very bad [position]. That is not our responsibility, it is not our doing. I am very, very sorry the homeowner finds himself in this situation. Somebody messed up and it wasn't Council. I don't think we should take down those trees to accommodate that mistake."

This view was echoed by Councillor Sandra Humfries, who highlighted discrepancies in the developer's original intention to build around the trees, but now they have to go to make way for the grading.

"I feel bad for the owner," she said. "He probably had no idea this was going to happen to him and those residents thought the trees were going to remain. We have a tough situation."

It was not a tough decision for Councillor Evelyn Buck, however, who voted against the delay out of the view that the development

should proceed without any further delay.

?For Councillor Gaertner to say the developer made the mistake by selling the house, we issued the permit,? said Councillor Buck.
?The Town of Aurora gave a permit for that house to be built with a walkout basement without looking at the new grading that had to be put in place to accommodate this new design of a house.

?There's no merit to delaying it for another two weeks. I conclude there is nothing new that Mr. Mar can bring forward to Council. All he is going to do is put all into writing so you can read it six times and wrap your head around it. You can't understand it when you hear it, but you will understand when you read it.?