

Protected trees spark debate over subdivision agreement

By Brock Weir

It could be back to the drawing board for one new Aurora homeowner as Council considers blocking the removal of three protected trees from his lot after neighbours raised concerns.

The three trees in question can be found on a property on Longthorpe Court, near the southeast corner of Bayview Avenue and Vandorf Road. The trees are singled out as they were originally situated adjacent to the Allan Brown House, a heritage building which has since been moved to a new location within the subdivision it made way for. With the heritage designation on the building itself, the designation spread to the land around it, including the trio of trees. Although the house itself was moved, the trees remain protected within the subdivision agreement between Aurora and the developers and many residents of the neighbourhood say they came to see these trees as an asset.

After considerable debate at the committee level last week, Councillors are set to ratify a decision to tell the property owner to go back to the drawing board and reconfigure the grading on his lot. The trees, he said, were of questionable health according to an arborist report and would be in the way of grading his property to minimize flooding.

The debate among Councillors, however, highlighted the rights of neighbours and the community at large versus the rights of an individual property owner.

Citing the process the property owner went through to get to this point, including making the application to the Town, getting the arborist's report and other steps recommended to him by the Town, Councillor Evelyn Buck argued that his was a 'reasonable' request.

'I understand the sentiments [of the neighbours] but this is not a sentimental business we're in,' said Councillor Buck. 'There is nothing sentimental about the planning of a subdivision. A person has come along and purchased that lot, no doubt paid more than anyone else in that subdivision for the lot [as] it is a beautiful and preferable lot and naturally he wants to do the best he can.'

Similar sentiments were expressed by Councillor John Abel who, although he changed his mind by the end of the debate and opted to keep the trees, said the removal of the heritage house changes things.

'Now that the house has been removed, the trees are in isolation, and they are not, in my mind, a heritage situation,' he said. 'I think the homeowner has the right to develop this land as he sees fit.'

Complicating the debate, however, was the fact these trees were enshrined in the subdivision agreement, something of which the homeowner, the neighbours and the developer were aware of when they purchased their lands and began their builds.

'The site plan clearly identified the trees' preservation and everyone knew purchasing the property that those trees were protected,' said Councillor Sandra Humfries. 'The homeowner has the right to come here and it is up to us to decide what we think is best when it comes to something like this.'

'It was clearly in the plan. [We can't] just ignore it. We need to protect the trees.'

This was a view shared by both Councillors Wendy Gaertner and Chris Ballard. For Councillor Gaertner, she would like everyone in the neighbourhood to be in 'harmony', but there was an understanding within the neighbourhood on the trees that needs to be fulfilled.

'I think the responsibility goes back to the builder to make the grading right and leave the trees in place,' she said. 'The trees must stay.'

Added Councillor Ballard: 'The arborist's report finds them in generally good shape and viable for many years to come. I find it

interesting the developer knew of the grading and the protected trees?and I am a bit concerned that knowing that, they went ahead.?

Boiling down the argument, it came down to who knew what and the answer to that was everyone with an interest in the community knew what was required when it came to these trees, said Marco Ramunno, Aurora's Director of Planning. For Councillor Michael Thompson as well, that was at the heart of the matter.

?[Neighbours] purchased on the belief that [the trees] would be protected,? he said. ?[The homeowner] spoke about the landscape development and he acknowledged he was aware of the tree protection area, although he might not have been made aware to the extent or the limitations. He has the right to do what he sees fit, but at the same time I think it is a bit of a unique situation that there is an agreement that all parties are privy to and it is clearly spelled out.?