

Proposed City Wide Textual Amendment 44P2013 to LUB 1P2007 Section 28(3), to add the option of “phasing” as a condition to Permitted Use Development Permits.

We are opposed to the proposed wording for the above noted Textual Amendment as it will remove the last option to appeal a Permitted Use Development Permit or DP. The community and affected neighbours will lose the small voice we have left for appeal.

A DP is issued by the Development Authority, and this permit is a decision. A decision is subject to appeal within two weeks of decision date.

There is a nested hierarchy of conditions for the Permitted Use DP application process. This matrix of application, approval, revised plans, appeal, compliance, and enforcement cannot be silo-ed, so that each cell within the matrix is dealt with independently. If each cell is dealt with independently, there is no coherency to the process, and it becomes ineffectual in its purpose and mandate, allowing gaps for abuse of process, and no remedy for this abuse for the community. A good example is the Lot Grading Permit. Another good example is the textual amendment approved in March of this year, 5P2013, which now allows incomplete Permitted Use DP application approvals by the Development Authority, despite that amendment going in direct violation of section 40(e) of the Land Use Bylaw that states Permitted Use DP's must be complete. The March amendment to allow incomplete Permitted Use DP's results in the necessity for additions and or changes to an incomplete DP, and these changes to the site plan are called Revised Plans or (RP's). RP's are commonly inappropriately approved, because the ongoing changes to the site plan are often significant enough to require a new DP, or decision. RP's cannot be appealed, so what are actually decisions, are not subject to appeal as they are shielded as RP's.

Now, if approved, the “*phasing*” amendment will further allow the City to make ongoing decisions throughout the Permitted Use DP process. This is relevant to the community because work on developments will not be required to be completed within a 2 week appeal window from date of permit issuance, and ongoing decisions, called phases, will also be shielded from appeal.

We in the Community should not have our right of appeal taken away if the City is making ongoing decisions throughout the Permitted Use DP process. The City should not be insulated from a Community Association or neighbour appeal, a right outlined in the Municipal Government Act section 685(2) and (3).

If this amendment is passed, Builders will now get approved incomplete and phased Permitted Use DP's, which the community will have no opportunity to appeal.

For this reason, we would like to see clarification of the wording of the proposed amendment to exclude Developed Areas from the option of phasing.

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