

Community Association Response



HOUNSFIELD HEIGHTS – BRIAR HILL COMMUNITY ASSOCIATION

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Hello,

Hounsfield Heights – Briar Hill Community Association thanks the city for circulating Land Use Amendment LOC2024-0268 at 1831 and 1335 13th Ave NW. This redesignation proposes to change to DIRECT CONTROL, to “accommodate H-GO”, changing from R-CG to DC/H-GO.

The key point of this redesignation is that it is **using Direct Control, where another land use district, H-GO, would suit the intended use**. This is **completely contrary to the City’s own policy** on the use of Direct Control districts. The H-GO district was developed so that a bunch of Direct Control districts would not be necessary, and it would still allow a single-family home to be built on the site. This proposal instead **uses DC (Direct Control)** to specify that a building following the H-GO rules can be built on the site AND a **single-family or semi-detached/duplex dwelling CAN NOT be built**.

The developer is seeking this rezoning specifically to defeat the Restrictive Covenants on these lots. They explicitly say this in the application: “remove single detached, semi-detached or duplex from use to tackle restrictive covenant registered on title” and “The reason direct control was used instead of H-GO directly is because of the restrictive covenant on titles”. If City Council grants this DC rezoning, the developer will then go to court and argue that this **artificially created conflict** between the zoning and the Restrictive Covenant should be resolved by removing the Restrictive Covenant “in the public interest”. However, **the public interest also includes the local population around this development and the needs of the immediate neighbours should matter the most in this debate**.

The Community Association does not support this tactic to circumvent contract law and Restrictive Covenants. **Direct Control should not be used where an existing land use district appropriately applies, and H-GO applies explicitly** for the buildings the developer wishes to erect. The developer should **apply for H-GO on its merits**, and the **Restrictive Covenants should be a matter for the courts** to decide on their own merits, as a completely separate matter. Neighbours have a right to rely on these Restrictive Covenants and to defend them in court if they choose, and the developer was aware of the covenants when purchasing the land.

The City ignored ideas for respectful compromise and mitigation of impacts in the Riley Local Area Plan, and cannot now fault homeowners for invoking their contractual rights. The City has a policy of ignoring Restrictive Covenants in planning matters, when homeowners ask about them, stating they are a matter for the courts. It is not appropriate for the City to abandon this policy when a developer asks. Restrictive Covenants should indeed be adjudicated SOLELY in the courts, in a consistent manner, and the rezoning that is considered here should be to the appropriate existing district – H-GO.

A further issue that is germane to whether H-GO density is appropriate here is that of infrastructure. Neighbours all along 13th Avenue NW and nearby have raised the point that they ALREADY have water pressure issues, and they’ve been told that their pressure cannot be increased due to effects on properties downhill. If an H-GO scale development is to be built on these two lots, adding a significant number of units at once, this infrastructure issue needs to be addressed. Local upgrades to water service need to be funded by this developer, who would be profiting from our neighbourhood, not the general tax-payer at some undefined time in the future. It is not fair to existing residents, nor even future developers, to ignore these issues now and assume the existing infrastructure will accommodate this proposal.

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