

2

FOREST CONSERVATION BY-LAW SPECIAL PERMIT APPLICATION 3575 ELGIN MILLS ROAD EAST, TOWN OF MARKHAM

The Transportation Services Committee recommends:

- 1. Receipt of the deputation by Ruth Brock, resident, Town of Markham; and**
- 2. Adoption of the recommendations contained in the following report dated June 7, 2010, from the Commissioner of Transportation Services.**

1. RECOMMENDATIONS

It is recommended that:

1. The application submitted by the owners of 3575 Elgin Mills Road East, Town of Markham, dated March 17, 2010, for a Special Permit under the Forest Conservation By-law for the removal of 1.2 hectares (3 acres) of forest for farming purposes in Part Lot 25, Concession 4, Town of Markham be approved.
2. Staff be directed to issue a Special Permit with the following condition as outlined in Section 4 of this report:
 - a) To protect bird nesting activity and other wildlife functions, no tree removal shall occur between April 15 and July 15.

2. PURPOSE

The purpose of this report is to seek approval to issue a permit for the removal of 1.2 hectares (3 acres) of forest in the Town of Markham.

3. BACKGROUND

Regional Council's review is required for Forest Conservation By-law Special Permit applications for forest clearing

The Region's Forest Conservation By-law (No. TR-0004-2005-036) prohibits or regulates the destruction or injury of trees in forests on private land. Regional Council may approve or deny Special Permits for "major" forest removal, i.e. clear cutting. The removal of more than 0.2 hectares (0.5 acres) of forest is considered "major" forest

removal. Regional Council must review the matter in accordance with the intent of the by-law, while giving consideration to the agricultural and environmental principles established to guide decision making.

A Special Permit application proposes the removal of 1.2 hectare (3 acres) woodland for agricultural purposes

A Special Permit application was received (March 17, 2010) from the owners of 3575 Elgin Mills Road East, Town of Markham. The application proposes the removal of 1.2 hectares (3 acres) of forest to repair an existing agricultural tile drainage system and reclaim farm land.

Lois Frisby, Marguerite Gallone, Charlotte Frisby and Ruth Brock are the owners of the farm property located on Part Lot 25 Concession 4, Town of Markham. The property is located south of Elgin Mills Road East and west of Warden Avenue in the Town of Markham (*Attachment 1*). The subject property is 28.2 hectares (69.7 acres) and includes 25.7 hectares (63.5 acres) of active farm land, a residence, barns and the forest area.

The Town of Markham, Toronto Region Conservation Authority and Ontario Ministry of Natural Resources have been consulted

Staff have met with the applicant to discuss the proposal and have completed several site inspections of the property. Staff from the Town of Markham, Toronto Region Conservation Authority and Ontario Ministry of Natural Resources were advised of the application and invited to provide comments in terms of implications of existing policies and legislation. York Region Forestry staff met directly with Town of Markham staff to review and discuss the application. All comments received were taken into consideration during the review of this application.

4. ANALYSIS AND OPTIONS

The application has been considered under the Forest Conservation By-law, screened through the review process and assessed in the context of the agricultural and natural environment policies of the Region

Along with consideration of all applicable Regional and local Official Plan policies, this review has also considered the implications of Provincial policies such as the *Greenbelt Act, 2005* and Plan.

To assist staff with the review of agricultural applications under the Forest Conservation By-law, the Region adopted a series of principles to balance the interests of agricultural sustainability and the protection of the natural environment. These principles include; land tenure, farming history, proposed agricultural activity, environmental impacts and prohibition areas.

To assist in the review of the application, a scoped Environment Impact Statement (EIS) was completed. This statement helped to confirm that the subject forest is not designated a significant woodland, and that the area had been previously farmed. Alternative drainage options and mitigation of the impacts to the forest were also considered.

The proposed forest removal is required to maintain and expand the existing agricultural operation – the landowner's have farmed the property for over 130 years

The subject lands have been farmed by the applicant's family since the 1870's. The applicant has operated a livestock operation on this site for over 30 years, and is considered a bona fide farmer. Based on a review of the current age and species composition of the woodland, surrounding land use and existing tile drainage system, areas in the subject woodland were likely to have been farmed within the last 30 years.

The existing tile drainage system has become blocked by trees and roots as it passes through the forest. The growing trees resulted in increasing drainage problems for the adjacent agricultural fields. The proposed forest removal is required to repair the tile drainage system, and to increase the size of the existing farm fields. The proposed farming activity would be an extension of the existing livestock feed operation.

As part of the review of the application, options for tree planting compensation were considered. However, due to the agricultural use of the property, the site does not provide any opportunities for tree planting compensation. The families do not own other holdings which provide an alternate forest compensation option.

The subject forest is a young successional forest which has grown on previously cultivated lands

The subject forest is a small (1.2 hectares) isolated successional forest which has grown around an older farm hedgerow. The forest is dominated by red maple, poplar, and green ash, with several other species present including blue beech and common buckthorn. The estimated age of the dominant trees appears to be 30 years old. The forest is not designated a significant woodland. There are no endangered species documented in this area. There are no environmentally sensitive features such as evaluated wetlands or watercourses associated with the subject woodland.

York Region Official Plan December 2009 designates lands as Agricultural Area, and lands are subject to Proposed ROPA 3 – the Markham Urban Expansion amendment

The subject land is designated as Agricultural Area (Map 8 – Agricultural and Rural Area) of the adopted York Region Official Plan (ROP) - December 2009. The forested area subject to this application is not included in the Regional Greenlands System as identified in the ROP (Map 2 – Regional Greenlands System). Further, the woodland

would not be considered a Significant Woodland based on policy 2.2.39 of the ROP as adopted by Council, December 2009. The subject land is not located within the Greenbelt Plan Area.

The adopted York Region Official Plan – December 2009 provides policies which encourage urban expansion lands to remain in agricultural production until they are required for urban development, and as such the applicants' desire to continue farming the lands is supported and encouraged

The subject lands are also subject to Proposed Regional Amendment 3 - the Markham Urban Expansion area amendment, and as such are expected to be developed for urban uses prior to 2031. Proposed Amendment 3 will proceed to public meeting in June, 2010. A decision on the Amendment is anticipated in late 2010 or early 2011.

The subject property is zoned A1 Agriculture in the Town of Markham Official Plan, but is part of the proposed urban expansion area endorsed by Markham Council

The primary and predominant uses provided for in the agriculture designation is that of farming activities. The proposed agriculture operation is consistent with this designation. Town of Markham staff is concerned with the loss of forest cover, however, current and future policies support viable agriculture.

The Town of Markham has six percent forest cover and has undertaken significant steps through policy development, programs and projects to protect and restore its woodlands. This woodlot is identified in environmental inventories; however at this time, there are no Town Official Plan (or other) designations that afford the feature any protection. This woodlot is an isolated feature and not proposed as part of the Markham Greenway System as part of Markham's Growth Management review.

While the woodlot is seen as having the potential to be an amenity in any future urban area, the lack of connectivity and additional Town policies support the ongoing presence of viable agricultural operations on these lands. As such, the policies would not preclude the activities proposed under this application.

On May 11, 2010, Markham Council endorsed the Town's "Recommended Markham Growth Alternative to 2031". This growth alternative proposes the expansion of the Town's urban area to encompass the subject lands.

Environmental agency comments do not conflict with tree removal

The Toronto and Region Conservation Authority confirmed that the subject woodland is outside their regulated area, and provided recommendations on the timing of tree removal to protect nesting birds. The Ontario Ministry of Natural Resources commented on the need to screen the site for the presence of species protected by the *Endangered Species*

Act, 2007. There were no protected species previously documented or identified on the subject property.

It is recommended that the Special Permit application be approved

Based on a review of the application including; a screening of the environmental features and designations, the age, composition, size and location of the woodland, and that the purpose of the tree cutting is to repair an existing agricultural drainage system and reclaim agricultural land for a long term farming resident, it is recommended that the Special Permit under the Region's Forest Conservation By-law be approved subject to the following condition:

- To protect bird nesting activity and other wildlife functions, no tree removal shall occur between April 15 and July 15.

5. FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

6. LOCAL MUNICIPAL IMPACT

The Town of Markham Official Plan designates the subject property as A1 Agriculture, and identifies the lands as part of the urban expansion area through the Town's Growth Management review. This review was endorsed by Town Council on May 11, 2010.

There are no environmental designations on the property and the woodlot is not part of the proposed Markham Greenway System. Protection and restoration of woodlands is recognized as a priority for the Town of Markham. However, agricultural sustainability is also a current and future policy priority for the subject lands.

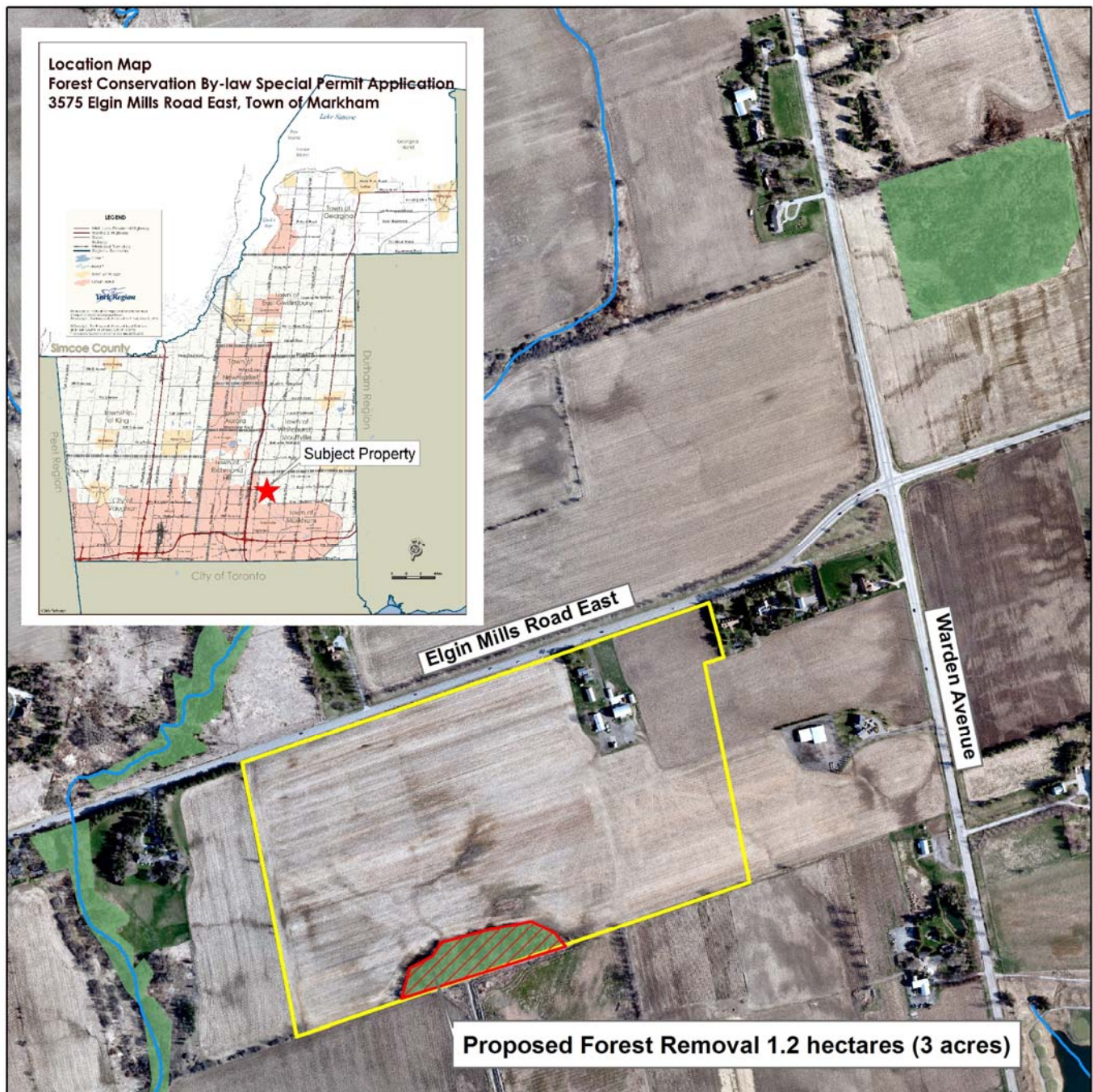
7. CONCLUSION

A Special Permit application has been submitted to remove 1.2 hectares (3 acres) of forest for the purpose of repairing an existing agricultural tile drainage system and reclaiming agricultural land. The application has been reviewed giving consideration to the agricultural and natural environment policies and principles under the Forest Conservation By-law. In addition, the proposal has been assessed against Provincial, Regional and Town of Markham policies. The recommendation is that the application for the removal of 1.2 hectares (3 acres) of forest by the owners of 3575 Elgin Mills Road East, Town of Markham be approved.

For more information on this report, please contact Ian D. Buchanan at Ext. 5204.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is attached to this report.)



Location Plan

Forest Conservation By-law
Special Permit Application
3575 Elgin Mills Road East
Part Lot 25 Concession 4
Town of Markham