

Brampton Guardian

Heart Lake appeal heard in court

Thu Jul 15 2010
Page: 1
Section: News
Byline: Peter Criscione

The lawyers presented their arguments and now a judge will take the next few weeks to decide whether the Ontario Municipal Board (OMB) was right to approve a multi-building highrise development in Heart Lake.

Lawyers representing the City of Brampton, Peel Region and the developers spent the better part of Wednesday debating the merits of an 834-unit, six-building highrise development at the northwest corner of Conestoga Drive and Sandalwood Parkway.

Builders Royalcliff Developments and Lake Path Holdings fought for the development at the OMB, despite resident opposition and a unanimous city council rejection.

The OMB approved the project on April 15, which prompted the city to launch an appeal.

Justice Gordon Lemon was asked Wednesday to determine if an appeal should be allowed to move on to Ontario Divisional Court.

"This is a very complex matter and it will take some time to make a decision," said Lemon at the conclusion of the hearing, held at A. Grenville and William Davis Courthouse in Brampton.

The OMB approved 834 units in a six building highrise development up to 20-storeys high.

It's significantly less than the original application for 1,443 units and townhouses that included a 32-storey tower, but the city argues the revised proposal would still be too big and inconsistent with the community.

That type of development, say city officials, would be better situated along the Queen Street Corridor where the municipality is trying to concentrate high-density growth.

The city's lawyer, Bryan Finlay, questioned the "reasonableness" of the OMB's decision based on the fact that the land in question is currently zoned for 419 units in two 18-storey towers.

He argued increasing the development to 834 units in six buildings is far too drastic and, if allowed to go head, would essentially render zoning in a municipality pointless.

Planning in Greater Toronto would be left to "ad hocery" if this sort of thing is permitted, Finlay said.

Scott Snider, the lawyer representing the developers, countered that Queen's Park has made intensification the order of the day in Ontario and developers must

now focus on building up, not out.

Consequently, the position Royalcliff finds itself in now is that building 419 units in two 18-storey towers on that site is just not economically feasible.

"The zoning for that land hasn't changed in 30 years, but provincial policies have," Snider said. "The province is calling for more intensification."

Snider also stressed the city may be trying to concentrate high-density development in specific areas, but there are currently no laws in the city specifying where highrise developments must be built.

Snider pointed out that there are numerous highrise developments in Brampton, some larger than the one proposed for Heart Lake, situated outside the Queen Street corridor.

"If there was a law that would be different, but there isn't," Snider said.

Finlay agreed growth policies have changed focus in Ontario in recent years. However, he stressed planning does not occur in isolation and the OMB should have paired provincial planning guidelines with those of Brampton and Peel Region.

"That is where the OMB failed," Finlay countered.

Finlay said the OMB could have rendered a different verdict had members weighed municipal, regional and provincial planning objectives equally.

Lawyers volleyed their arguments back and forth over a seven-hour period as 30 or so Heart Lake residents looked on.

The group gathered outside the courthouse prior to the start of the hearing and staged a mini-protest.

They initially set up near the front doors of the courthouse but were soon asked to take their demonstration to the sidewalk by security.

Mike Steer, a neighbourhood spokesperson, said he puts the city's chances at winning an appeal at 50/50.

"I think we have a very strong case but I am not very optimistic," Steer said.

Justice Lemon said he will need a few weeks to come to a decision on the matter.

© 2010 Metroland Printing, Publishing & Distributing