

Brampton Guardian

City loses Heart Lake appeal

Thu Oct 14 2010
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Section: News
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In a surprisingly brief, two-sentence decision, a judge has upheld the Ontario Municipal Board's (OMB) approval of a multi-highrise development in Heart Lake, according to area councillor Paul Palleschi.

"It's just devastating news," said an emotional Palleschi 20 minutes after receiving word of the decision Thursday. "We fought so hard..."

Mr. Justice Gordon Lemon upheld the OMB decision, according to Palleschi, leaving the city with no more legal avenues of appeal.

"He doesn't believe there was enough of an error in law to kick it (the appeal) up to a three-judge panel," Palleschi said. "We have basically exhausted our legal route."

"I'm devastated. I can't, I just don't know what else to say," Palleschi said. "It's the worst piece of news that I've had in an awful long time. We thought that common sense would still prevail, but it didn't."

The city's appeal of the OMB decision was heard over two days in July.

Palleschi said that, after waiting so long for a decision, he expected full written reasons for the judgement, and was surprised by the brevity of what was released to the city Thursday.

Now, the city has no other recourse, but to try to convince the provincial government that the OMB decision was wrong.

"What we have to do is go to the Premier," Palleschi said. "We have to deal with the politics of it now."

Also, he said the developer still has to go through site plan approval, and the city can make that process as stringent as possible, which could make it too "pricey" for the development to go ahead.

"I feel bad for the residents," Palleschi said, noting it has been a long battle. "We've been fighting this, we've stood side-by-side..."

The OMB approved the project- 834 units in a six building highrise development up to 20 storeys high at the corner of Sandalwood Parkway and Conestoga Drive- on April 15.

It was significantly less than the original application for 1,443 units and townhouses that included a 32-storey tower, but the city argued the revised proposal would still be too big and inconsistent with the community. The city and residents criticized the OMB for not listening to the citizens, and not

respecting the city's planning controls that indicated the building would be better situated along the Queen Street Corridor.

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 it was permitted, Finlay said during the appeal hearing.

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.

"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.

"This is a very complex matter and it will take some time to make a decision," Lemon said at the conclusion of the appeal hearing.

With files from Peter Criscione

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