

York Region

Aurora development decision in OMB's hands

Fri Jan 7 2011
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Section: News
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Following the closing arguments made last week, it's now up to the Ontario Municipal Board to decide if a plan to build 75 luxury homes and an 18-hole golf course on a portion of the Oak Ridges Moraine, near Leslie Street and Bloomington Road, is out of bounds or a hole-in-one.

It has taken nearly three years for the Westhill OMB hearing to draw to a close.

Acting on behalf of developer and landowner Lebovic Homes, lawyer Michael McQuaid argued the board could place its confidence in the fact agencies, including the Toronto Region Conservation Authority, Ministry of Environment and even Region of York, had evaluated and accepted the plan, albeit with conditions. Even the town's planning staff were recommending the concept to Aurora council.

"However, it didn't get by council," Mr. McQuaid said. "What I'm saying to the board is that significant agencies such as the TRCA, the MOE, as well as the region had reviewed the work done by our consultants and accepted it."

Both lawyers acting on behalf of the town, Roger Beaman and Rod Northey, put forward that the OMB could not simply sit back and rely on the idea the TRCA, the MOE and other agencies would do their jobs in ensuring the Westhill plan wouldn't prove a detriment to the local water supply and surrounding environment.

The strongest words on this came from Mr. Northey, who explained to do so could equate to a failure on the part of the OMB to fulfill its mandate.

"This board cannot abdicate its authority," he said. "To do so would constitute an error of law."

Earlier in the proceedings, Mr. McQuaid pointed out the property in question has a history stretching back to 1989. The original plan had only a subdivision on the east side of Leslie, but, during the mid-1990s, the landowners were taken on a tour of Beacon Hall by planning staff from the town and region to view the combination of clustered housing and golf course, Mr. McQuaid said.

"That (tour) led to what is now before the board," he said.

Mr. Beaman countered the purpose of the Beacon Hall tour was simply to demonstrate the clustered housing concept and not an attempt to suggest a combined golf course and condominium development. Further to that, he argued one of the

original concepts was for housing on the east side of Leslie and a golf course on the west side on land that was later acquired by Lebovic.

By attempting to shoehorn the golf course into the east side, the landowner was eliminating the possibility of implementing trails and other desired environmental features, Mr. Beaman said. The town takes no issues with the proposed housing, he said, adding the prime concern remains the golf course.

"We're not saying there can be no building here," Mr. Beaman said. "We just can't see where this golf course would fit."

Nowhere would likely be the ideal spot for neighbouring residents and members of groups such as Earthroots, who have been very vocal in their opposition of the plan.

The Toronto-based organization has said the fight is an important one as it has the potential to set a precedent for future developments on the moraine and will ultimately serve to put the highly touted Oak Ridges Moraine Conservation Act to the test. Earthroots representatives were not available for comment, but have made their position clear on their website.

"Westhill's proposed development is the litmus test for the highly praised act. If it bypasses the (moraine act), this will set a dangerous precedent and potentially open the doors to detrimental development in other areas across the moraine and (Ontario's) greenbelt."

The first phase of the hearing started Sept. 14 and ran for four weeks, while the second began Oct. 12 and ran for 2-1/2 weeks.

Lebovic's proposal was brought forward to Aurora council in 2008. Citing concerns about water supply and a desire to protect the sensitive Oak Ridges Moraine, council voted against it.

The company, however, has argued the project will not have an impact on the water supply for neighbouring residents as it draws from a different aquifer and will use only treated rain water and wastewater to irrigate the golf course.

The town initially sought a joint board hearing between the OMB and the environmental review tribunal, as both it and residents adjacent to the property felt it was the best way to address the slew of environmental concerns, but the request was denied in divisional court last winter.

Following the February court decision, council ordered its lawyer, Mr. Beaman, to file and appeal, but this, too, was unsuccessful.

Three months later, the town retained a hydrogeologist, geoscientist and planner as expert witnesses and, in July, also moved to retain the services of Mr. Northey, who had represented the residents opposed to the project until they decided to bow out of the battle.

There's no official word yet on the cost of the Westhill fight, but Councillor Evelyn Buck, who has been consistent in her criticism of the town's involvement in the matter, has suggested the price tag is in excess of \$135,000.

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