



Developer, city dispute parkland and 'viewscape' issues

OMB hearing to continue Tuesday and Wednesday

Posted October 24, 2011

Laurentian Heights Ltd. has changed its mind about dedicating a large swath of escarpment to the city as parkland because staff "renewed" on a 2007 plan of subdivision agreement, the Ontario Municipal Board was told Monday.

"I was astounded city senior staff could disregard the agreement under corporate seal, passed by council and (with a corresponding) bylaw," said John Wallace, president of Laurentian Heights.

Wallace was referring to a 2007 document stipulating that Block 156 — 34 acres of steep escarpment between Ski Club Road and Kenrita Drive — would be dedicated as parkland as the development proceeded.

He said the initial Kenrita agreement involving 10 lots at the west end says the largest parcel of open space would be transferred to the city as parkland when each of the adjacent lots on the south side of the road was developed.

Laurentian Heights, Wallace said, has already dedicated 7.76 acres of subdivision land as parkland, exceeding the Planning Act requirement of 5% and the designation he now disputes would push the total to 38%.

In 2000, the city supported Laurentian's rezoning application which featured the land transfer and the OMB referred to the large future parkland designation as it dismissed an appeal by concerned residents.

Wallace said his relationship with city staff changed significantly after he cut about 100 trees — about half of which were saplings — on city land to maintain the view residents of his subdivision sought. After negotiating the replanting of 27 large trees to offset the loss, Wallace said it became clear he and the city had a different opinion about how much of the "viewscape" could be maintained.

The definition of "horizon" was disputed, Wallace said, with the city saying it only includes the far end of Lake Nipissing where the sun sets while people who purchased his lots paid a

premium to see the city lights, the lake and the horizon.

"I was never talking about the far shore," Wallace said, noting the original offer of the extra open space in a 1997 draft plan of subdivision agreement was intended to maintain views for residents.

He also told the OMB that the city "extorted" a 60-metre-wide section of Block 156 when he sought approval for the Surrey Drive subdivision agreement in late 2008.

At the time, Wallace said he was under "financial distress" after spending "hundreds and hundreds of thousands of dollars" extending the sewer line down Kenrita Drive and up the slope to Surrey Drive. He said pending lot sales had expiration deadlines.

"I felt extorted at the time and I could not allow that to happen again," Wallace said, explaining in part why he was appealing directly to the OMB to remove Block 156 from the rezoning approval.

If that happens, Wallace said he would consider "gifting" the land for a charitable tax receipt to the North Bay-Mattawa Conservation Authority or city, possibly as a legacy contribution honouring the parents, Ken and Rita Wallace.

"It's hard to speculate, but I would indicate it would still be a gift," he said.

The municipality's representative is Michael Burke, who retired as the city solicitor this spring, but has been involved in the Laurentian Heights issues for more than 20 years.

Burke referred back to various agreements dating to 1995 which made note of the larger-than-necessary parkland designation, and Wallace indicated that was the intention at the time.

He also asked the developer about stipulations that only city staff would trim or remove trees on public land to maintain views, agreements made prior to Laurentian Heights cutting trees outside its property lines.

Burke then asked Wallace what would happen if he didn't develop further along Kenrita Drive.

"I'm guessing there won't be any (parkland) transfer," Wallace said.

He later agreed with his lawyer's suggestion that the city or NBMCA could have first-right-of-refusal for \$1 deeded onto the property title if someone tried to buy it.

The city is expected to call its witnesses as the OMB hearing continues Tuesday and Wednesday beginning at 10 a.m. in the sixth floor boardroom at city hall. An extended session Wednesday evening 7 to 9 p.m. will be held in the council chambers to accommodate residents who want to comment but couldn't attend daytime sessions.

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