

FYI

From: Glenway Community Group [<mailto:contact@glenwaycommunitygroup.com>]

Sent: Saturday, October 19, 2013 1:48 PM

To: Brouwer, Andrew

Cc: Mayor Van Bynen; Taylor, John; Kerwin, Dave; Twinney, Jane; Hempen, Tom; Sponga, Joe; Di Muccio, Maddie; Emanuel, Chris; Clerks; attorneygeneral@ontario.ca

Subject: Written Submission - Glenway Golf Course - Development Application - Intent of By-laws and Official Plan

Please ensure my written submission correspondence be specifically included in an upcoming agenda packaged for Council, Committee of the Whole and other committees involved in the Glenway development application.

I recommend the Town of Newmarket clearly state the intent of the by-laws and Official Plan applicable to the Glenway golf course property. (attached intent of bylaws and official plan i.e.)

This information should be communicated to the residents to ensure there are no surprises on what the intent for the permitted uses of this property are. It appears elected officials are taking the position of defending the Official Plan; it should be clear what that actually means. Behind the by-laws and Official Plan it should be made clear how the areas of the Glenway golf course are classified and how they can be used. There is a trail of important history starting from the development agreement and several changes to the by-laws over the years and the Official Plan. A clear chronological listing of the approved uses for this property (by specific sections of the property) should be prepared. The recent Comprehensive By-laws changes in 2010 will be of surprise to residents and this should be shown to explain how the use of this property was changed and why the developer is appealing the changes prior to the development application. **All by-laws** should be accounted for and explained.

As this development application is being processed it is critical that this issue be addressed. As you should be aware; the OMB ruling of a development should be and can be appealed to Ontario Courts. (attached case law "city of Toronto appeal). The bases for the appeal will be "error in law". The reasonableness of the proposed changes to the by-laws and Official Plan and the intent of the by-law and Official Plan will be the bases of the appeal under "error of law". See attached appeal of OMB ruling by City of Toronto to demonstrate that this is possible.

The proposed development application for intensification of the open-space of the Glenway property is not the intent for the Glenway property and proposed changes are unreasonable (any residential development is not the intent and therefore unreasonable). The Courts are not concerned about the Province's mandated growth targets, proximity to the Go Station or the developer's plans for our community, but will be interested in; the intent for this property by the Municipality vs. OMB interpretation, reasonableness of this application and the consequences it will have on the community and the residents. It is imperative that the intent for these properties as outlined in by-laws and the Official Plan be clearly communicated to residents.

The Town of Newmarket objected to my Aug 7th 2013 request for "party status" at the OMB hearings (attached request – OMB report - granted "participant status"). This decision prevented a strategy for residents to have the right to appeal the OMB decision to the Courts. My appearance as a resident and on behalf of residents at the OMB has been misstated as a compensation argument for residents (attached OMB report page 3). Compensation was one of the issues to demonstrate the OMB's lack of jurisdiction in the matter of compensation, but not the sole issue. The key issue was the right to appeal to the Courts. Given the actions by The Town of Newmarket, you should insure the OMB decision (if a development is approved) is appealed to the Courts. As the Town has contributed to preventing a resident from gaining Party status to have the right to appeal the OMB ruling; **it would be negligent if the Town did not assume this role and responsibility as a strategy to defend the by-laws and Official Plan on behalf of the interests of the Glenway residents.** I recommend the approval by Council for the funding of this appeal by the Town of Newmarket before the cost of the OMB are incurred and additional consulting fees on the application file. You should ensure there is funding for the Court appeal and put this strategy in place immediately.

The community in general is not aware of the importance of this strategy as the Town of Newmarket is reluctant to support it as demonstrated by the rejection of OMB party status for residents. The OMB is not the appropriate decision maker for this type of file given the impact to the community. The Courts will act in the best interest of the residents while the OMB has mandates which are in conflict with residents and the OMB will not recognize damages or compensation for residents.

We all know this proposed development application is **unreasonable** and not the **intent** for this community.

The Town of Newmarket should manage this application with a clear strategy to appeal to the Courts. The residents should be made aware of any issues in the defence of the intent of the by-laws and Official Plan in regards to the Glenway property. The attention of residents should not be in the process to proceeding with development but to understand how the Town is/will defend the intent of the by-laws and Official Plan.

Regards,

Jeff Brown
Glenway Community Group