

Municipal land reserves around Highland Gate shouldn't be used as 'leverage'?

By Brock Weir

The Town of Aurora's one-foot land reserves around the former Highland Gate Golf Course shouldn't be used as leverage in a 'heavy handed or arbitrary manner' as far as future development is concerned, according to the municipal solicitor.

In a report before Council this week from Town Solicitor Warren Mar, the Town of Aurora confirms it has a complex series of one foot land reserves dotted around the perimeter of the former golf course, which recently announced plans to become a housing development.

These one-foot reserves line segments of Bathurst Street, Highland Gate, Timberline Trail, Cranberry Lane, as well as lie at the dead ends of George Street, Highland Court, Brookland Avenue, and George Street where the road meets the golf course lands.

According to Mr. Mar, many of these one-foot reserves were established when the land surrounding the current footprint of the course was turned into a residential development through the 1980s.

These one-foot reserves were confirmed in the 1990s when developers came forward with further re-development plans for the course, a plan which subsequently fizzled by the middle of the decade.

'One foot reserves along public highways, or at the end of public highways, are a common planning tool used by municipalities in order to control access and development, and enable municipalities to require that developers enter into appropriate development agreements and installation of services before building permits are issued.

'Once construction is completed' one foot reserves usually become part of the public highway and municipal street. One foot reserves are basically a way to guide development and ensure that it occurs in an appropriate fashion, according to established plans, guidelines and provincial policies. While municipalities have been able to uphold the use of one-foot reserves in court as a proper planning tool, the use of the one-foot reserves is subject to certain rules established in case law.'

Citing these case studies, Mr. Mar cautions that using one-foot reserves as leverage does have limitations, and using its discretion on lifting the reserves can't be made 'in bad faith, for arbitrary reasons, or for extraneous, irrelevant or collateral considerations that have nothing to do with relevant planning principles.'

Such reserves, he notes, are not under the jurisdiction of the Ontario Municipal Board, but Ontario's Superior Court of Justice.

'Practically speaking, using a one-foot reserve to frustrate a developer after a municipality loses planning arguments at the Board would likely be seen by the Court as an inappropriate attempt to set aside or frustrate the Board's decision,' says Mr. Mar. 'One foot reserves do exist within Highland Gate, but their use as 'leverage' in any future development of the lands cannot be heavy-handed or arbitrary.

'The purpose of one-foot reserves as a planning tool is to enable municipalities to control access and development on the adjacent lands. The courts have ruled that a municipality exercising its discretion to lift a one-foot reserve cannot make its decision in bad faith, for arbitrary reason, or for extraneous, irrelevant or collateral considerations that have nothing to do with relevant planning principles.'

The closure of Highland Gate Golf Club was announced by landowner ClubLink in November.

On December 23, ClubLink announced a 50-50 partnership with Geranium Group to redevelop the land into a residential development.

While the move has left many area residents worried they could have another 'Glenway' on their hands, citing a battle between the Town of Newmarket and owners of the former Glenway Golf and Country Club over a similar redevelopment of that golf course, a Ratepayers' Group was established last month to provide a united voice for neighbours.

Geranium promises their development will be 'compatible' with the existing neighbourhood and anticipates further dialogue with the residents later this month.