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DECISION/ORDER NO:

2698



Ontario

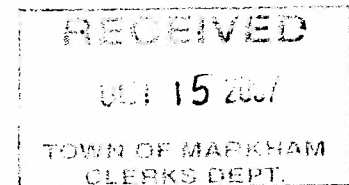
Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL070639

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: Agnes Lee-Chang, Ying Sun Chang and Wang Hui Dong
Subject: By-law No. 2007-178
Municipality: Town of Markham
OMB Case No. PL070639
OMB File No. R070174



APPEARANCES:

Parties

Town of Markham

Times Markham Centre

Agnes Lee-Chang, Ying Sun Chang and
Wang Hui Dong

Counsel

S. O'Melia

A. Jeanrie, J. Picher (Student-at-Law)

H. Elston

MEMORANDUM OF ORAL DECISION DELIVERED BY M. HUBBARD AND S.W. LEE ON OCTOBER 9, 2007 AND ORDER OF THE BOARD

Zoning By-law 07-178 was enacted by the Town of Markham to facilitate a development proposal to increase the height of the buildings to 14 and 16 storeys and the number of units to 532.

The appellants were represented at the hearing. However, no planning or any other type of evidence was proffered to substantiate the appeal.

The only evidence heard by the Board was adduced by the applicant of this proposal. It is in the nature of both urban design and planning. By and large, the evidence was uncontradicted and has not been shaken under cross-examination.

It is abundantly clear to this panel that the increase in units and heights are in keeping with the larger policy context of the Province. It is also in keeping with the micro-planning environment of the Municipality, in that it conforms specifically with Official Plan Amendment No. 43 to the Official Plan of the Regional Municipality of York and the Markham Central Secondary Plan.

In the larger policy context, the subject site is located in the Urban Growth Centre identified in Schedule 4 of the Growth Plan under the *Places To Grow Act*. The initiatives underpinning the increase in height and density are also squarely within the policy thrust of the PPS of 2005.

As put forth succinctly in the evidence of Mr. Goldberg, the planner for the applicant, the proposal is responsive to the planning objectives for transit supportive area, a more compact form, and intensification for a more efficient use of infrastructure and resources.

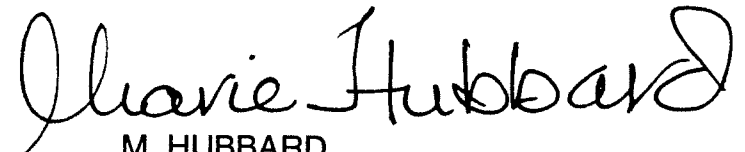
The site is located at the northwest intersection of South Town Centre and Clegg Road. It is within minutes away from a Markham Viva bus stop and will be serviced by L.R.T. for which road allowance had been pre-designed. The proposal has another meritorious feature aside from its location. By transferring the height and density from the western portion of the site to the approved high rise form, this "leed" certified project, would be fulfilling the goals and objectives of a building with a built form and design that is friendly to the environment and in a node that is being intensified. In addition, a parkett will be created on the subject lands.


In a more micro-planning context, the Board is well satisfied that no Official Plan amendment is required in the context of OPA 43, as the subject site is located in a designated "centre" and "corridor" for which intensification is directed. Within the context of the Secondary Plan for Markham Centre the Board is satisfied that the height increase is well within the general guidelines set out therein.

The appellant is located at the penthouse unit in a condominium building directly across the Town Centre Drive. The urban design evidence and the sun-and-shadow evidence indicate clearly to us that the impact on the appellant is such that no urban dweller can readily complain. We are also satisfied that the separation distance between the buildings is such that it is within the comfort zone of urban living.

Furthermore, the Board wants to emphasize that no evidence had been adduced to substantiate any such misgivings.

In short, it is our conclusion that the appeal is to be dismissed and we so order.


M. HUBBARD
CHAIR


S.W. LEE
EXECUTIVE VICE-CHAIR

