

SUBMISSION TO THE PLANNING PANEL for public hearing 5 pm Tuesday
December 13, 2022

The intention of the Planning Act, 2016, should have been to make the interests of the community (within which the planning processes are to be applied), paramount. However, it is evident that the developer comes first! An appeal to the Environment Resources and Development Court (ERDC), on a panel (or commission) decision of a development “outside” of the plan’s parameters, such as a Performance Assessed or Restricted development, ought to be the option for the neighbours and general community, not that of the proponent (developer). The current situation allows only the proponent to appeal. This seems unacceptable for a development proposal that is beyond the limitations expressed in the current Development Plan.

This is an unsound concept, for it changes the panel (commission) from final arbiter of works outside of approved plans to one of a negotiator. After all, knowing that the proponent can raise an appeal if the proposal is rejected would be likely to apply pressure to a panel. The only options to either “fold” or accept the proposal or to attempt to reach a compromise in settling one of many factors. These may be a nonconforming built form, greater dwelling density, over the maximum allowable height, etc. That is, one or more parameters that exceed those allowed under the current approved Development Plan for any given precinct.

Allowing development proposals to proceed where limits will be exceeded, leads to unwanted precedence. From one bad outcome for the community comes a biasing for all future development. One may well ask: “Why have plans at all, if the developer can “trash” the Plan?” A plan for a precinct changed over time by influence of developers? What about the desires of the community that should be served by a good plan and therefore, likely good planning outcomes in future development proposals? The Plan and the act within which it sits, is not stable enough to ensure good future development outcomes as long as developers have the final say with appeal rights to the ERDC, for those proposals that fall outside of the Plan. For those developments, only the community should be permitted to decide whether to appeal to the ERDC for the final say!

On the matter of the panel (or commission) members’ qualification, past or present developers should be barred from joining, A suitable portion of the panel should be elected members of council, experts, perhaps, but decisions should be the norm, not a negotiated redesign or a compromised design outcomes. Either pass or fail. If rejected, the panel should invite the developer to submit a revised plan, hopefully within the approved parameters of the appropriate plan.