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GUELPH MERCURY

EDITORIAL

Wal-Mart appeal needs to be heard

(Jan 14, 2005)

Just when we thought it was safe to go back to Woodlawn, the fight over Wal-Mart's planned arrival in Guelph is about to heat up again.

The group that has fought the retail giant for the better part of a decade was bruised but not beaten by last month's Ontario Municipal Board ruling in Wal-Mart's favour. Residents for Sustainable Development is seeking leave to appeal that decision, just in time for yesterday's deadline.

If the court agrees to hear the appeal -- based on religious freedom -- it could provide a fascinating conclusion to this epic battle. So far, the battleground has spread from council chambers, into the streets and to the reaches of cyberspace. Now it appears the struggle that has captured the attention of Wal-Mart opponents everywhere may end up before a judge.

At first, the religious argument looked like a desperate move on the part of the Ignatius Jesuit Centre. The corner of Woodlawn Road and Woolwich Street is hardly an oasis of tranquility. One of the busier intersections in Guelph, the corner is anchored by a big-box Canadian Tire store and plaza to the east. There is a McDonald's within walking distance on Woolwich, and the stretch of Woodlawn Road heading west toward Kitchener is a prime example of commercial/industrial sprawl.

Considering all that, and the fact that Wal-Mart owns the property in question, it seemed inevitable that the store would open there in 2006, as planned.

Enter the Jesuits, who had been quietly operating their retreat centre on Highway 6, behind the proposed Wal-Mart. For the most part, they have kept to themselves, quietly going about their business while the city grew to their doorstep. They haven't seemed to mind until now.

Something about Wal-Mart has offended their religious sensibilities. Suddenly the bustle of commerce in their backyard is in direct conflict with their religious practice. The Catholic cemetery on the south side of Woodlawn is now crucial to the Jesuit operation, even though it has been cut off from the centre by a major truck route for many years.

Nevertheless, it is not our place to decide what does and does not trample the right to religious freedom in this country. Only the courts can make that call.

That is why it's important that this appeal be heard.

There is no question that the Ignatius Jesuit Centre is an integral part of Guelph's religious and cultural heritage. It is one of the first things visitors see when entering the city from the north. Its well-groomed orchard and college speak to Guelph's agricultural and intellectual character, while its tranquil setting speaks to the city's rural and religious heritage.

Despite its crass commercialism, that corner is important, perhaps even sacred, to the people of Guelph. If this were not true, Wal-Mart would not have faced its toughest fight in North America to land that spot.

There is no doubt that Guelph consumers want a Wal-Mart, or that the retailer is coming to the city. However, a legal ruling on the religious question would put the fight over that location to bed once and for all.

If the appellants win, their religious freedom will be upheld. If they lose, Wal-Mart will have at least earned its right to that corner.

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Residents' group seeking leave to appeal municipal board decision

BRIAN WHITWHAM

GUELPH (Jan 14, 2005)

The Ignatius Jesuit Centre said yesterday it fully supports a residents' group that hopes to take its freedom of religion argument to court in its ongoing fight to stop Wal-Mart from opening a store in the north end of Guelph.

On Wednesday, Residents for Sustainable Development in Guelph announced they are seeking leave to appeal an Ontario Municipal Board ruling allowing Wal-Mart to proceed with construction.

If granted, the group's appeal would be heard by the Ontario divisional court. The proposed site is at Woodlawn Road and Woolwich Street, near the Jesuit centre and two cemeteries.

"We absolutely agree that the OMB decision should be challenged at a higher court and we support the residents' group in doing that," said Jim Profit, director of the Jesuit centre, located on Highway 6 North.

Last summer, the residents' group had argued before the OMB that opening a Wal-Mart at Woodlawn Road and Woolwich Street would infringe the freedom of religion provisions of the Charter of Rights and Freedoms.

Profit said he had braced himself for the municipal board decision, announced earlier this month, that Wal-Mart could go ahead with its construction plans.

"It was a combination of 'well, I'm not surprised,' but nevertheless it was still disappointing and sad," he said.

Profit said that no matter what happens, the Jesuit centre isn't moving.

"We are committed to staying in Guelph. We have no interest in moving.

"Our efforts now are to make that possible, and part of that is supporting the residents' group's appeal."

He said the centre is exploring "all viable options" to make staying possible, but it's too early to say what those other options might be.

Wal-Mart Canada said it's targeting early 2006 for the grand opening of its Guelph location.

Knowing the centre is staying put, Profit is bracing himself for increased traffic, noise and activity if the big box outlet becomes a reality.

He said it's not the store itself that he is really worried about.

"The Wal-Mart is just part of it," he said. "Wal-Mart always attracts other stores. That area will become a huge retail centre. I'm certain that will be the reality."

Profit said it will make things difficult for those who come from around the world to use the centre as a spiritual retreat, and for the people using the nearby cemeteries.

"I've been to graveyards in Toronto where the prayers had to be yelled because of traffic noise," he said. "It doesn't make for a very sacred moment. It's the same for families visiting loved ones.

"It's supposed to be a time of solitude."

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**LETTER OF THE DAY**

**Wal-Mart shows disrespect to mourners**

The comments offered by Wal-Mart spokesman Andrew Pelletier in the Jan. 4 article, Wal-Mart Wins In Guelph, have the hollow ring of corporate spin.

Pelletier is quiet correct when he says that Wal-Mart received two "unsolicited" petitions in favour of a local Wal-Mart. However, as far as I know, neither of these petitions said anything about location, just that a Wal-Mart was wanted in Guelph.

Wal-Mart was never invited to shoehorn itself between two cemeteries and beside a world-renowned spiritual retreat centre. The fact that it has insisted on doing so for the past 10 years, in spite of vocal opposition from many Guelphites, demonstrates a profound disrespect for the citizens who bury and mourn their dead at the Woodlawn cemetery and the retreatants of all faiths from around the world who avail themselves of the tranquillity of the Ignatius Retreat Centre.

If Wal-Mart had really cared about the needs and wants of its Guelph customers, it would have set up shop 10 years ago on an appropriately zoned parcel of land, rather than making them wait a decade while it dragged the city through a lengthy legal battle to impose its will on the community. As it stands, residents of the south end of Guelph will likely still find the trip to Cambridge shorter than fighting the traffic through the centre of the city to get to a Wal-Mart in the north end of Guelph.

Pelletier claims that Wal-Mart Canada is committed to working with the city and is cognizant of some of the issues raised during the hearing. If this is indeed true, then Wal-Mart can convince me by choosing another site in Guelph. That way everyone will be happy, those who want a Wal-Mart in Guelph and those who don't want it beside the Ignatius Retreat Centre and Woodlawn Cemetery. Failing this, Wal-Mart will simply have cemented its reputation as a corporate bully that uses its financial muscle to get its own way.

• Susan Watson  
Guelph

KW Record  
January 14, 2005

## GUELPH MERCURY

In the battle against Wal-Mart, resistance may be futile

SCOTT TRACEY

(Jan 5, 2005)

Does anyone remember that episode of Star Trek: The Next Generation that introduced the fearsome Borg Collective?

"Prepare to be assimilated," the cyborg army warned menacingly. "You will adapt to service us. Resistance is futile."

If the Borg were the ultimate all-consuming entity on Star Trek, bending the wills of everyone else to suit their own goals, then Wal-Mart must surely be their retailing equivalent.

And in the battle against Wal-Mart, as in that fictitious war against the Borg, resistance may indeed be futile.

That is the resounding message sent by this week's Ontario Municipal Board ruling which paves the way for a 135,000-square-foot Wal-Mart store at the corner of Woolwich Street and Woodlawn Road: You can fight it, but you can't beat it.

Guelph has been developing quite a reputation among those opposed to Wal-Mart in particular and large-scale retail developments in general.

For nearly 10 years, various groups in the city -- including, at times, city council itself -- have been engaged in a David and Goliath struggle against the world's largest retailer.

Ben Bennett, as leader of Residents for Sustainable Development in Guelph, has reluctantly adopted the public persona of a giant-slayer, and acknowledged yesterday the local case has been seen by many as a model for fighting Wal-Mart and their ilk.

In fact, Guelph found a special place in the hearts of the organizers of a cross-Canada campaign which spoke out against the retail giant last summer. The Royal City was a highlight of the 'Wal-Town' tour, one of the organizers told my colleague Kerry Thompson, "because we were able to hold it up as a community which had kept Wal-Mart out."

Today that reputation, which many Guelphites can't wait to shed anyway, lies in tatters; replaced with the reputation of a community that waged a tremendous fight, at a tremendous financial cost, and in the end was crushed under the Wal-Mart machine like so many before it.

So was it all for naught?

Hardly, according to Ian Findlay.

The owner of the downtown Thomas Entertainment video shop was one of the first people to alert the masses in 1995 that Wal-Mart had fixed its gaze on Guelph.

About 25 residents attended an information session at his store, later becoming the nucleus of the Big Box Action Group that would evolve into Residents for Sustainable Development.

On Monday, Findlay told me he realized even then it would be an uphill struggle to keep Wal-Mart at bay. But he said the long and winding path leading to this week's decision caused a lot of people to take a serious interest in the future of their community who otherwise might not have "and in that I am personally very proud.

"For me (getting people involved) was my objective and we overwhelmingly achieved that objective," Findlay told me.

While this all sounds like the ringing of the death knell for Residents for Sustainable Development, there is a good chance the legal battle against Wal-Mart is not yet concluded.

"There are a lot of people who are obviously very passionate about this and will want an appeal," Findlay said. "I don't think it's just going quietly away."

Indeed on Monday, even as he read the 31-page decision, Bennett said an appeal was likely and acted as though the ruling was nothing more than a minor setback he had anticipated all along.

I have no doubt Bennett expected OMB member Bob Boxma to approve the development application.

During the past nine years, Wal-Mart has proven it gets what it wants, that it will not be dissuaded from its chosen course of action and that it does not surrender.

Prepare to be assimilated.

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GUELPH (Jan 4, 2005)

Yes to Wal-Mart in Guelph: OMB

Giant retailer gets approval to open in north end; court appeal possible  
SCOTT TRACEY

Ontario Municipal Board member Bob Boxma, arriving at Guelph City Hall recently, has ruled in Wal-Mart's favour in a 10-year battle by the retailer to come to a north-end site in Guelph

The world's largest retailer has scored a major victory in its decade-old battle to open its doors in the Royal City.

The Ontario Municipal Board has approved amendments to the city's Official Plan and zoning bylaw to allow a 135,000-square-foot Wal-Mart store and 20,000 square feet of additional retail space in the north end.

"It allows the development," Ben Bennett said of the 31-page decision received yesterday.

"It's a green light."

Bennett leads Residents for Sustainable Development in Guelph, a citizens' group that opposed the Wal-Mart proposal before the OMB.

The shopping centre proposed by 6 & 7 Developments is near the intersection of Woodlawn Road and Woolwich Street.

"I'm not surprised at the outcome of the decision," Bennett said.

He explained he does not believe during the hearing board member Bob Boxma gave much weight to an argument the proposed store violated the right of the adjacent Ignatius Jesuit Centre to freedom of religion.

In his decision, Boxma wrote the Jesuits have adapted to various land uses around their retreat centre, including a large Canadian Tire and Staples across the road, "and the board did not have evidence that the approval of 6 & 7 would result in the Jesuit Centre closing."

Boxma also wrote no one has "a licence to create a 'zone of exclusivity' which would be the result if the position of the Jesuits was adopted."

At first blush the ruling appears to close the book on Wal-Mart's nearly 10-year-old battle to open a big box store in the city.

However, Bennett hinted his group might launch an appeal of the ruling before the courts, arguing concerns raised under the Charter of Rights and Freedoms were not fully considered by the OMB.

"Just because (Boxma) doesn't necessarily buy the Charter argument doesn't mean it's not a valid argument for someone else," Bennett said.

"There's no question an appeal was in the cards if it was warranted. What we need to do is look at the legal stuff. . . and figure it out."

Eric Gillespie, lawyer for the residents' group, noted such a decision must be made quickly. According to provincial rules of civil procedure, the parties have 15 days from the release of the decision to file an appeal.

Though the ruling was received in the mail yesterday by Gillespie and the city, it was dated Dec. 29 so the clock has been ticking since last week.

"We have until the end of business on Jan. 13," Gillespie said.

If an appeal of the ruling is allowed by the Divisional Court, it would take three to seven months to have the matter heard and possibly several months after that before a final decision is rendered, Gillespie said.

Andrew Pelletier, director of corporate affairs for Wal-Mart Canada, said yesterday company officials have not had an opportunity to thoroughly review the ruling and wish to do so "before we are able to make any in-depth comments on it."

Pelletier said obviously Wal-Mart is hopeful Boxma's ruling ends the years of legal wrangling.

"Hopefully the project will be able to proceed now," Pelletier said. "We've been working on this project for a number of years."

He said the company has been encouraged by two "unsolicited" petitions sent by Guelph residents in favour of a local Wal-Mart, including one with 10,000 signatures, "so there's an enormous demand for this development in Guelph."

Pelletier said Wal-Mart Canada is committed to working with the city and is cognizant of some of the issues raised during the hearing. Asked when a store might be operational on the site, he said the project is "more long term."

"To put this type of development in place we'd rather be right than fast . . . so we'll be taking the process one step at a time," he said.

"It's been a very long process for everyone involved."

Kate Quarrie couldn't agree more.

"I'm pleased the issue has come to a conclusion," Guelph's mayor said yesterday.

"It's gone on long enough."

The mayor said she has long believed the parcel of land at the northwest corner of Woodlawn Road and Highway 6 should be rezoned from industrial to commercial "no matter what went in there. It fits with (the land uses) we already have along there."

GUELPH (Jan 4, 2005)

#### Options for Wal-Mart opponents limited

GUELPH (Jan 4, 2005)

Those opposing a Wal-Mart in Guelph's north end have five options in light of a ruling allowing the retailer to set up shop, said Eric Gillespie, the lawyer for the residents' group fighting the proposal.

The first option is to take no further action. The others are:

Ask the Divisional Court to allow an appeal of the ruling, which would see another full hearing of all the evidence in the case. A hearing could take three to seven months, with the court reserving its decision for several more months after that, Gillespie said.

Ask the court to conduct a "judicial review" of the ruling, focusing particularly on the issue of whether the proposal violates religious freedoms under the Charter of Rights and Freedoms. This option could similarly take several months to make its way through the court.

Request a "re-hearing" of the case from the Ontario Municipal Board. Gillespie said this provision is rarely used and unlikely to succeed given the lengthy history of the proposal.

Appeal directly to the Minister of Municipal Affairs. This option also is almost never used and unlikely to succeed, Gillespie said.