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July 30, 2015

Mr. Adrian Cammaert
Town of Georgina
Keswick, Ontario
L4P 3G1

Dear Mr. Cammaert:

Re: Official Plan Review - Maple Lake Estates

I have reviewed the April 2015 Draft Official Plan, and on behalf of my client, the North Gwillimbury Forest Alliance (NGFA), would like to express some concerns, all of which relate to the prospective designation of the Maple Lake Estates (MLE) property.

Aside from my client's and my major concerns about MLE, staff and consultants have done a thorough and comprehensive job of revising and updating the Official Plan. We are particularly pleased to see the removal of all designations and policies supporting estate residential development on the Maple Lake Estates Inc. property south of Deer Park Drive, and the proposed redesignation of this area as Environmental Protection Area and Agricultural Protection Area.

In this letter, I use "rural Georgina" to mean the area of the Town that is covered by the present stage of the Official Plan Review and is outside the secondary plan areas.

Schedules

Schedules B1 and B2 show the wetland, and Schedule B1 the woodland, that together cover over 90% of MLE. This mapping is consistent with Maps 4 and 5 of the York Region Official Plan, as well as the additional areas mapped as wetland by the Ministry of Natural Resources in 2013.

These schedules also show the northeast corner of MLE as within the Greenland System, consistent with the Regional Greenlands System mapping in the Regional Plan.

Except in that northeast corner, the wetland and woodland on the MLE property are not included in the Greenland System. These are the only major wetland and woodland areas in rural Georgina that are not included in the Greenland System.

Schedule A1 shows MLE as Towns and Villages, with the Greenland System overlay in the northeast corner.

Schedule A2, the map of base designations that is proposed to replace the present Schedule A, shows MLE as Urban Residential Area - that is, no change from Schedule A - plus the Greenland System overlay.

The wetland and woodland on the MLE property are the only major such areas in rural Georgina that are not included in the Environmental Protection Area designation on Schedule A2.

These inconsistencies only underline how incompatible MLE's 1980s-legacy Urban Residential Area designation is with the natural heritage features on the property. The attempt to reconcile these in the schedules sticks out like a sore thumb, especially given that it is completely inconsistent with the approach taken everywhere else in rural Georgina.

Policies

The proposed continuation of MLE's Urban Residential Area designation, and the inclusion of MLE in the Population Growth Forecast (table 1), are in my opinion:

- ▶ Inconsistent with the Plan's Vision (section 2.1), and Sustainability and Natural Environment Guiding Principles and Objectives (sections 2.2.1 through 2.2.4).
- ▶ Inconsistent with section 3.1, which says that "the remainder of the Town [including MLE] will continue to be rural in character and is not proposed to accommodate significant growth".

According to table 2, MLE will generate zero employment. This would seem to be inconsistent with the vision and guiding principles of the Greater Golden Horseshoe Growth Plan and similar statements in the Regional Plan, not to mention the Draft Plan's own Growth Management Objective 2.2.8.4.

The Draft Plan makes clear that all woodlands are key natural heritage features and all wetlands are both key natural heritage and key hydrologic features. As already noted, MLE is unique in that its woodlands and wetlands are not proposed to be included in the Environmental Protection Area, and most of them are not proposed to be included in the Greenlands System. Those key features instead fall within an urban designation. As a result, based on the preamble to section 5.1, the key features on the MLE property do not fall under the natural heritage protection requirements of either sections 5.1.1 (northeast corner excepted) or 5.2.

The failure to include MLE's woodlands and wetlands in the Environmental Protection Area is inconsistent with section 6.3.1, which appears to indicate that all key features are included in that designation, and certainly does not suggest that any are not. Because the MLE key features are not included in the Environmental Protection Area, they would appear not to be subject to any of the Environmental Protection Area requirements of section 6.3.

Therefore, it appears that the MLE woodlands and wetlands and their adjacent lands are not subject to any of the study requirements, development prohibitions, or no-negative-impact tests that normally apply to key natural heritage and key hydrologic features. This is in my opinion inconsistent with the Provincial Policy Statement (PPS), and further highlights the Plan's failure to square the un-squareable circle in trying to maintain MLE's urban designation.

The conformity obligation

I am well aware of staff's view that, as noted in Attachment 7 to the April 8, 2015 staff report on

the Official Plan, "the existing Urban Residential Area designation [of MLE] conforms with York Region Official Plan and Greenbelt Plan", and therefore that the existing designation should be maintained.

I can only repeat the material previously submitted in my August 22, 2014 letter to the Town and MHBC:

"NGFA's counsel, Leo Longo, and I have clearly outlined in past submissions, that the Town Official Plan and zoning bylaw are obliged to conform to the 2010 Regional Plan and that MLE is not in any way exempted from this obligation:

- "▶ In accordance with sections 26 and 27 of the *Planning Act*, the Town is obliged to bring its Official Plan and zoning bylaw into conformity with the applicable wetlands and significant woodlands policies of the Regional Plan, so as to prohibit development on most of the MLE property, despite the Regional Plan's designation of MLE as Towns and Villages (Longo-Usher response to Town information update, August 10, 2012, pp. 2-4; Usher report, December 19, 2012, pp. 1-3; Usher to Gibbons, February 1, 2013, p. 2; Longo to Council, February 19, 2013, p. 2; Longo to Council, March 25, 2013, pp. 2-5; Usher to Dymont and Furniss, November 8, 2013, pp. 1-2). In doing so, the Town must, of course, also be consistent with the PPS and conform with applicable provincial plans as per section 3(5) of the *Act*.
- "▶ There is nothing in the Transition policies (8.4.14 to 8.4.22) of the Regional Plan that indicates that the MLE property is in any way exempt from this conformity obligation (Longo-Usher response, August 10, 2012, pp. 2-4; Longo to Council, February 19, 2013, p. 5; Longo to Council, March 25, 2013, p. 6; Usher to Dymont and Furniss, November 8, 2013, p. 2).
- "▶ Section 5.2.1 of the Greenbelt Plan provides a transition policy for official plan and zoning bylaw approvals that predate the Plan, but does not require any municipality to continue to recognize those approvals (Longo-Usher response, August 10, 2012, p. 3). I would add that a careful reading of the Plan suggests that this section does not even apply to MLE because it is designated Towns and Villages.
- "▶ Policies 8.4.24 and 8.4.25 of the Regional Plan carry forward the intent of Section 5.2.1 of the Greenbelt Plan (and it appears these policies do apply to MLE and other Towns and Villages). However, these policies are otherwise similar to Section 5.2.1. They do not require any municipality to continue to recognize pre-Greenbelt Plan official plan and zoning approvals. The only obligatory exemption is for subsequent implementing applications (for example, a site plan application). These policies do not appear to interfere with the conformity obligation in any way (Longo to Council, March 25, 2013, p. 6). I recognize that Regional staff interpret these sections and their implication for MLE differently (Shuttleworth and Konefat to Lenters, February 14, 2013), but for the above reasons, I do not agree with their interpretation."

Designations are not forever

I would also like to reiterate the most relevant portions of material provided under this heading in my August 22, 2014 letter:

"The planner preparing or reviewing an Official Plan or zoning bylaw is required, first and foremost, to meet the applicable conformity obligation. However, there may be some individual situations where it is not entirely clear how to proceed consistent with that obligation, or there may be more than one possible approach that meets the conformity test. To that extent, it may be useful as part of a review process to develop guidelines to assist in recommending the most appropriate designation or zoning.

"As part of such guidelines, where lands have been designated and/or zoned for development but development has not yet taken place, those approvals should not be removed lightly or without due consideration. However, the conformity obligation must first be met. Such guidelines cannot assume that approvals are inherently unchangeable. I offer the following points in support of that position, both generally, and specifically with respect to MLE.

"▶ Section 10 of the [June 4, 2014] Planning Directions Report, the protocol for the review of site-specific designations . . . , exists because as the introductory paragraph says, 'it is necessary to review these site-specific land use designations to determine if the permissions attached to them continue to be appropriate.'

"▶ Policy 1.1.2 of the PPS, plus complementary references elsewhere in the PPS and Greater Golden Horseshoe Growth Plan, indicate that 20 years is the generally accepted long-term planning horizon unless specifically indicated otherwise. The MLE Official Plan approvals have been in place for [27] years. An unused approval that exceeds the long-term planning horizon may no longer be relevant, and certainly should not be considered unchangeable.

.....

"▶ As well, the subdivision agreement between the Town and Maple Lake Estates Inc. provides that, at any time, it may be replaced with a new one if the Town so wishes. This provision was added in 1996 to the original 1990 agreement, presumably as a result of the Town's own doubts at that time about whether development would ever take place and whether the approvals would indeed be permanent.

"▶ Leo Longo's February 19, 2013 letter to Council, at pp. 5-6, summarizes the many key changes in planning law and policy since the MLE approvals (to which can be added a fourth PPS [in 2014]). He concludes:

'Surely the time is now to study whether any or all of these developments, especially the [coming into force of the applicable Regional Plan provisions in 2012], might warrant a change in the designation and zoning of the MLE lands that were initiated three

decades ago and have remained unexamined and unaltered since then."

Conclusions and recommendations

Georgina Council itself has largely accepted the logic of this present letter, when it resolved on May 13, 2015 that in the Greenbelt Plan, MLE should be redesignated from Towns and Villages to Greenbelt Protected Countryside and included in the Natural Heritage System. While of course the Greenbelt Plan has not been amended as requested and we don't know whether it will be, maintaining the MLE Urban Residential Area designation would appear to be inconsistent with Council's own recent decision.

I recommend that the Draft Official Plan be modified as follows:

- ▶ ***On Schedule A1, show MLE as Countryside Area.***
- ▶ ***On Schedule A2, designate MLE as Environmental Protection Area as appropriate, and any remainder as Rural Area.***
- ▶ ***On Schedule A2, include all of MLE in Greenland System based on the criteria in the preamble to section 5.1, and modify the Greenland System accordingly on other schedules.***
- ▶ ***In Table 1, remove reference to MLE, and add MLE's population to Keswick.***
- ▶ ***Remove sections 7.2 and 9.3.6.1, and all other references to MLE.***

Please let me know if you need any further information or clarification.

In accordance with Section 17(23) of the *Planning Act*, please provide me with notice of Council's decision.

Yours sincerely,

[original signed by]

Anthony Usher, MCIP, RPP