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September 29, 2021

Ms. Rachel Dillabough  
Clerk  
Town of Georgina  
26557 Civic Centre Road  
Keswick, Ontario  
L4P 3G1

Dear Ms. Dillabough:

**Re: Proposed Zoning Bylaw Amendment, 20971 Dalton Road and associated properties**

On behalf of my client the North Gwillimbury Forest Alliance (NGFA), I would like to provide Council and staff with further comments on the above application, for consideration at the September 29 public meeting. Previously, I wrote you on October 15, 2019 following the first public meeting. I also sent a memo to Ingrid Fung, then responsible for the file, on November 19, 2020, in response to the applicant's second submission.

My 2019 letter is included as Attachment 12 to the staff report before Council, but unaccountably, my 2020 memo is not and does not appear to have been considered in the staff report. I am enclosing the 2020 memo; please ensure it is placed before Council along with this letter.

In terms of my and NGFA's concerns, the application remains essentially unchanged from the applicant's 2020 resubmission that I already responded to. The only notable change is between the July 2020 and February 2021 Tree Inventory and Preservation Plans. The number of trees 20 cm and greater diameter breast height to be removed hasn't changed, but in the 2021 report, the number of new trees to be planted as compensation under Town policy has been drastically reduced. I would have expected the 2021 report to explain and justify this change, but it does not.

Therefore, our concerns remain largely unchanged from our previous submissions. I will briefly repeat our most important concerns, along with some additional comments in response to the staff report.

1. *The proposed removal of the woodland and wetland does not conform with the York Region or Georgina Official Plans.*

Please see the Planning Policy section of my October 15, 2019 letter. As noted in my November 19, 2020 memo, the shift from the originally proposed compensating wetland to the currently proposed cash-in-lieu compensation does not affect my opinion in this regard, except to introduce an additional element of nonconformity as noted in point 6 of the 2020 memo.

The staff report's justification that the woodland and wetland removal does conform with the

applicable plans boils down to an argument that since the Lake Simcoe Region Conservation Authority has determined that removal and cash compensation are ecologically justifiable, the removal of these features can be considered as a natural heritage feature boundary refinement as contemplated under planning policies permitting such refinements.

My view remains as expressed in the 2019 letter, that such an interpretation goes beyond the normal intention and understanding of boundary refinements permitted without plan amendment. While there is no formal definition of "minor refinements" as permitted in section 13.2.2.2(a) of the Sutton-Jackson's Point Secondary Plan, it has always been my understanding that such refinements must be limited to a reinterpretation of the boundary of the *existing* feature based on better and more precise science and information. That is exactly what the applicant's Environmental Impact Study does, as shown in its Figure 1, *before* any consideration of feature removal.

It is also noteworthy that as noted in my 2019 letter, the applicant and its consultants never suggested that feature removal should be considered as a boundary refinement.

The staff report makes a point of referring back to the June 10, 2019 email from York Region (Attachment 11 to the report), describing it as "analysis . . . that the proposed ZBA conforms to the YROP". I believe the Regional comments are less definitive than the staff report suggest.

The Region wrote,

"A woodlot is located on the northern portion of the site as per Map 5 (YROP-2010). The site is located within 120 m of a wetland, as per map Map [sic] 4 (YROP-2010). Any proposed development or site alteration should be located outside of the required setbacks/vpz associated with this feature. York Region relies on the Lake Simcoe Region Conservation Authority (LSRCA) to review and provide comments on natural heritage and natural hazard matters and associated applicable provincial plans. We defer to the LSRCA and their review of the Environmental Impact Study and natural features to determine the appropriateness of the site development and alterations."

Therefore, in my understanding of the Region's view:

- ▶ Development should be outside the required setbacks and vegetation protection zones of at least the *current* wetland (whether the current woodland also, is unclear).
- ▶ Staff rely on LSRCA to determine "appropriateness of the site development and alterations", which would include acceptability of impacts and their proposed mitigation, compensation if permitted by policy, etc. - *but not redrawing Maps 4 and 5 on the basis of feature removal.*

I do not actually see any blanket statement in this email that the proposal conforms to the Regional Plan. Certainly, the email can be read as indicating that the development would conform *if it stays sufficiently away from the current natural features*. The Region indicated that as of June 10, 2019 it had no objections, but it was not in a position to have any objections with regard to natural heritage features as LSRCA had not yet commented.

The staff report does not address the other Regional and Town conformity issues raised in my 2019

letter.

Nothing put forward in the staff report shakes my 2019 conclusion that:

"There is certainly a place for ecological offsetting, *in situations where the removal of natural features may be otherwise permitted by applicable policy*. That is not the case here. In my view, the other applicable policies of the Regional and Georgina Plans do not permit the removal of these features on this property for the proposed purposes - those policies already close the door before one arrives at the potentially open door of the ecological offsetting policies. And while this is a planning approval, not a *Conservation Authorities Act* approval, the Town and Region rely on the advice of LSRCA on natural heritage matters - and the LSRCA's own Ecological Offsetting Policy does not support this proposal in my view.

[The nonconformity with the LSRCA Offsetting Policy is described in detail in my 2019 letter. The switch to cash-in-lieu introduces a further element of nonconformity with that policy, as described in point 6 of my 2020 memo.]

"In my opinion, this proposal as it stands cannot be considered without an amendment to the Secondary Plan - but the amendment necessary to enable the proposal would not conform to the Regional Plan, so amendments to both would be required. To allow this proposal to go forward without such amendments would be a most dangerous precedent. Should such amendments be forthcoming, we will comment on their planning merits, and on the technical merits of any accompanying environmental justification and compensation proposal, at that time."

2. *The amount of woodland and wetland to be removed, and therefore the cash-in-lieu compensation calculation, have been significantly underestimated.*

Please see November 19, 2020 memo, point 2, for details.

However, it turns out from the staff report that the underestimate is *greater* than my 2019 memo suggests. In writing that memo, I had assumed there would be no wetland or woodland removal in the buffer area, so my area measurements did not include the buffer. Instead, the staff report says the wetland and woodland in the buffer will also be removed. Therefore, the actual amount of wetland to be removed will be approximately 0.34 ha (vs. 0.27 ha in the staff report), and of woodland, approximately 0.64 ha (vs. 0.27 ha in the staff report).

3. *The proposed approval does not assure that the cash-in-lieu would be applied to a compensation project within Georgina.*

Please see November 19, 2020 memo, point 4, for details.

To conclude, I once again urge Council to request the applicant to apply for appropriate amendments to the Regional and Secondary Plans, before considering the proposed rezoning any further.

I trust these comments will assist staff and Council in their consideration of the application.

Ms. Rachel Dillabough/September 29, 2021

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Yours sincerely,

*[original signed by]*

Anthony Usher, RPP

cc. Connor McBride  
Asif Abbas