

MEMO

To: Ingrid Fung
cc. Dave Ruggle

From: Tony Usher

Date: November 19, 2020

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

As you know, on behalf of my client the North Gwillimbury Forest Alliance (NGFA), I submitted comments to Council on the above application by letter of October 15, 2019 (enclosed as it was not copied to the Lake Simcoe Region Conservation Authority (LSRCA)).

The Town has kindly sent me all the additional information I requested from the applicant's second submission. I also asked for and received from LSRCA additional correspondence that might explain the applicant's shift from a compensating wetland to cash-in-lieu compensation.

I have now reviewed this additional information. My concerns remain unchanged from my 2019 letter, with the following modifications.

1. The hydrogeological assessment (WSP, June 30, 2020) does not reflect the current proposal:
 - page 1 refers to "proposed enhanced wetland" as part of the project;
 - sections 5.3.2, 5.3.3, 5.3.5, conclusion point 9, and table 6 assume rooftop flows will be directed into the compensating wetland and enhanced buffer area - while the buffer area will remain and be extended along the east side of the northwest lot (20987 Dalton), the balance of that lot will become overflow parking;
 - figure 13 confirms these outdated assumptions.
2. The ecological offsetting strategy (Golder, March 19, 2020) says (page 2) that the development will result in removal of 0.27 ha of wetland and 0.27 ha of woodland, and points to the LSRCA Ecological Offsetting Policy as not requiring offsetting for wetlands and woodlands less than 0.5 ha.

Looking at Figure 1 in the original environmental impact study (Golder, January 2019), that part of the wetland (ecological land classification unit SWD4) that would be outside the buffer does appear to be about 0.27 ha. However, the woodland area is underestimated. It includes not only unit SWD4 but also units FOD7 and FOM8-1. The area of FOD7 and FOM8-1 that would be outside the buffer, taking into account also the proposed extension of the buffer along the east side of the northwest lot, appears to be about 0.27 ha. The total area of woodland outside the buffer therefore appears to be about 0.54 ha.

It appears from these figures and the cash-in-lieu calculation as if Golder counts SWD4's area (0.27 ha) as wetland only, and the area of FOD7 and FOM8-1 (0.27 ha) as woodland only. However, SWD4 is both wetland and woodland, and as you know, it's common that the same

lands can be both. I can't find anything in the Ecological Offsetting Policy that suggests that lands that are both wetland and woodland should be valued on the basis of one, not both, attributes. Unfortunately, the correspondence LSRCA provided (Ruggle to Sciberras, January 28, 2020) suggests that they are okay with the Golder approach,

3. The ecological offsetting strategy provides no explanation for the switch from a compensating wetland to cash-in-lieu. That a compensating wetland was originally proposed is not acknowledged - someone coming into the process now would have no idea it was ever proposed (except if they read the erroneous hydrogeological study).
4. Dave Ruggle of LSRCA emailed me on October 29 with some explanation for the switch in compensation approach. He copied this to your colleague Connor McBride, but I enclose this email with my covering email in case it never reached you.

Mr. Ruggle's email does provides some rationale. However, at the very least, that rationale should be provided to the Town and the public by Golder as part of their ecological offsetting strategy, not through the LSRCA planner's recollection of conversations with the applicant.

His email concludes that "a cash in lieu compensation would be appropriate as restoration staff can combine the cash in lieu with other funds to create a better feature elsewhere in the Town". The Ecological Offsetting Policy says only that the compensation project would be somewhere else in the watershed. The revised draft bylaw does not include any provisions addressing compensation, let alone require that Mr. Ruggle's assurances would be met.

5. The original planning report (Macaulay Shiomi Howson, April 2019) includes and justifies a preliminary site plan and the original compensation approach. Therefore, I would have expected to see the applicant's planners provide a supplement to their report justifying the significant changes to the site plan as regards the northwest lot (what would have been compensating wetland and retained significant woodland, will now be overflow parking), as well as the significant changes to the compensation approach. No such supplement has been provided.
6. Therefore, my 2019 concerns that the applicant has not addressed the conservation/mitigation hierarchies in the Official Plan and LSRCA Ecological Offsetting Policy, have only grown. The applicant has stepped down from at least an intent to compensate onsite, to a cash-in-lieu payment estimated at \$149,486, without demonstrating that onsite compensation is no longer feasible as is required by section 3.3.3 of the LSRCA Ecological Offsetting Policy. Also important to note is that the Town's Official Plan policy on ecological offsetting does not in any way contemplate cash-in-lieu. As well, the original proposal retained an element of connectivity across Dalton Road by retaining significant woodland and creating a wetland in the northwest lot (see 2019 letter) - this will now be lost.
7. My conclusion in my 2019 letter remains unchanged:

"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."

8. Finally, please note the technical comments on the revised draft bylaw in my October 23, 2020 email.

I hope these comments are helpful - pleased to discuss at any time.

Thank you,

[original signed by Tony Usher]