

AIRD BERLIS

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March 20, 2018

File No.: 112062

BY EMAIL AND REGULAR MAIL

Lake Simcoe Region Conservation Authority
120 Bayview Parkway,
Newmarket, ON
L3Y 3W3

Attention: Board of Directors & CAO

Dear Members of the Board & CAO Walters:

**Re: Maple Lake Estates Section 28 Application
LSRCA Staff Report 10-18-BOD**

As you are aware, we are legal counsel to the North Gwillimbury Forest Alliance (“NGFA”).

The purpose of this letter is to comment on Staff Report 10-18-BOD, scheduled for discussion at your March 23 meeting.

The MLE Application

Our client and its planning consultant Anthony Usher were advised by your staff that on May 2, 2017, Maple Lake Estates Inc., an affiliate of the DG Group, filed an application to the LSRCA pursuant to Ontario Regulation 179/06¹ to permit the residential development of the Maple Lake Estates (MLE) Lands. They understood that this 2017 application was a replacement of an earlier application for the same development filed in May of 2015, identical to that application and including identical supporting materials to those previously submitted.

NGFA submitted Freedom of Information (“FOI”) requests for LSRCA documents and correspondence with respect to the 2017 Application, but has not been provided with any correspondence between LSRCA and Maple Lake Estates Inc. since the date of Application. Accordingly, it remains unclear whether and/or when the Application has been deemed complete and what materials were submitted.

The Staff Report makes no reference to this May 2, 2017 application. The Report’s content and recommendation inexplicably reference the former application dated May 21, 2015. In addition, the Staff Report makes mention of a Dillon E.I.S. dated April, 2017. This is patently “new” material which could not have formed part of the 2015 permit application.

In LSRCA letters dated May 5, 2017 to Minister Mauro and Premier Wynne, it was stated:

¹ O. Reg. 179/06: Lake Simcoe Region Conservation Authority: Regulation Of Development, Interference With Wetlands and Alterations To Shorelines And Watercourses.

"As of today, the landowner has activated the permit application on the original subject lands."

Despite this 2017 "activation" of a permit application, which was actually the submission of a new application, LSRCA Staff still treat this as if it was a 2015 application. There is no legal basis for doing so. Staff have considered this matter on an incorrect foundational assumption.

The Province's Interest in the Paradise Beach-Island Grove Wetland Complex

Staff assert that "the Province has no interest in the protection of the wetland". The sole basis for this astounding statement is reference to an October 21, 2004 MNR letter to the former landowner/developer.

This assertion is misleading for many reasons, including the following:

- (i) this wetland complex has been classified as being provincially significant, and that classification has never been revised or revoked;
- (ii) Provincial policy is clear that there should be no development in such provincially significant wetlands; see the Provincial Policy Statement 2014; and
- (iii) the author of that 2004 MNR letter wrote directly to your Mr. Baldwin on March 11, 2015 advising that the Ministry deemed its 2004 letter to be superseded by the promulgation of O.Reg. 179/06 and that said 2004 letter predated your Authority's expanded powers to regulate activities within wetlands; see attached.

This March 11, 2015 letter is not mentioned in or attached to the Staff Report. Also note that March 11, 2015 letter predates both the 2015 and 2017 MLE s. 28 permit applications.

Staff's assertion about the Province's lack of any interest in the protection of this wetland lacks candour and is a misrepresentation of the facts.

"Subdivisions in Wetlands" Policy 11.4.1.2

Staff also rely on this ill-conceived policy from the former LSRCA Watershed Development Policies. Simply put, Policy 11.4.1.2 was repealed by the Board on April 24, 2015; it cannot be applied to the current MLE application; and even when it was in force, it could not have prevailed over provincial policy or the *Conservation Authorities Act*.

Mr. Usher and I have written to you in the past respecting the inapplicability of this policy to the MLE permit applications; please see:

- regarding the applicability of this policy to the specific applications, my letter of April 22, 2015 and Mr. Usher's letters of April 8, 2015 and July 14, 2017;
- regarding the inappropriateness of this policy when it was still in effect, my letters of November 29, 2013, January 3, 2014, January 14, 2014, and September 26, 2014, and Mr. Usher's reports of September 12, 2013, October 22, 2013, and January 3, 2014 and letters of July 28, 2014 and September 26, 2014.

March 20, 2018

Page 3

Conclusion

It is uncontroverted that the residential development of the MLE Lands will result in the destruction of provincially significant wetlands. Accordingly, NGFA remains of the position that provincial policy and the LSRCA's legislative mandate prohibit the development of the MLE Lands.

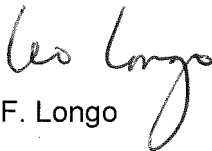
Please reject the premise of the Staff Report and its recommendation.

In this instance there should be no delegation to staff of your s.28 permit granting powers so that it is this Board that will make the ultimate decision on this MLE permit application.

Please protect the provincially significant Paradise Beach-Island Grove Wetland Complex from any and all development.

Yours truly,

AIRD & BERLIS LLP



Leo F. Longo

LFL/DPN

c. Minister Des Rosiers
Minister Mauro
Clerk, Town of Georgina

Jack Gibbons
Anthony Usher

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Ministry of Natural
Resources and Forestry

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March 11, 2015

Mr. Rob Baldwin
General Manager, Planning & Development
Lake Simcoe Region Conservation Authority
120 Bayview Parkway, Box 282
Newmarket, Ontario
L3Y 4X1

Dear Mr. Baldwin:

RE: Maple Lake (Leaf) Estates
19T-87055 Plan 65M-2903
Paradise Beach – Island Grove Wetland Complex
Town of Georgina, Region of York

I am in receipt of your letter of February 12, 2015 regarding the above mentioned development proposal and the provincially significant wetland on those lands.

My October 18, 2004 letter to Metrus Developments Inc. on this matter predates the expanded powers of the Lake Simcoe Region Conservation Authority to regulate any activities within wetlands, regardless of classification. This expanded power was enacted through the establishment of Ontario Regulation 179/06 pursuant to the Conservation Authorities Act.

Therefore, I consider my letter of October 18, 2004 to now be superseded by the Conservation Authority's implementation of Ontario Regulation 179/06 related to the lands in question, as the Conservation Authority sees fit.

Sincerely,

Thomas E. Farrell
Aurora District
Ministry of Natural Resources & Forestry