

**Ontario Municipal Board Hearing  
re New Official Plan (OPA 129), Maple Lake Estates provisions  
Town of Georgina  
Board Case PL161206**

**AGREED STATEMENT OF FACTS AND REMAINING ISSUES IN DISPUTE  
prepared by the parties' expert planning witnesses  
March 19, 2018 (corrected April 9, 2018)**

**PART A - AGREED FACTS**

***Subject Lands***

1. The subject lands consist of two lots, Blocks 1 and 2 of Plan 65M-2903, in the Town of Georgina (Property Identifier Numbers 03498-0005 and 03498-0006 respectively).
2. The total area of the subject lands is 200.45 ha. Both lots are owned by Maple Lake Estates Inc., an affiliate of the DG Group. The subject lands are known as Maple Lake Estates (MLE).
3. Attached as Appendixes 2 through 5 are four maps showing the location of the subject lands relative to:
  - the Regional Municipality of York (Appendix 2),
  - the Town of Georgina (Appendix 3),
  - its immediate environs (map plus air photo) (Appendixes 4 and 5).

***Planning History***

4. The known planning history of MLE dates back to the early 1980s. "Chronology of Events, Maple Lake Estates", which is part of the Agreed Facts, is attached as Appendix 1.
5. Development approvals (official plan and zoning bylaw amendments, plan of subdivision) were granted on the subject lands between 1987 and 1992, as summarized in Appendix 1, and remain in effect.
6. The subject lands are currently undeveloped.

***Provincial Policy Statement***

7. The 2014 Provincial Policy Statement (PPS) is applicable.
8. For purposes of the PPS:
  - MLE is a settlement area.
  - Much of MLE consists of significant wetlands and/or significant woodlands.

***Greater Golden Horseshoe Growth Plan***

9. The 2017 Greater Golden Horseshoe Growth Plan is applicable.
10. For purposes of the Growth Plan, MLE is a settlement area.
11. As MLE is within the Greenbelt Area shown on Schedule 4 of the Growth Plan, it is not identified as a settlement area on that schedule. The Growth Plan defers to the Greenbelt Plan in that regard.

***Greenbelt Plan***

12. The 2017 Greenbelt Plan is applicable.
13. For purposes of the Greenbelt Plan, MLE is a settlement area.
14. The Greenbelt Plan designates all of MLE as Towns/Villages within the Protected Countryside (Schedules 1 and 4). Greenbelt Plan Enlargement Map 6 shows that the Towns/Villages designation includes not only all the subject lands, but some of the abutting lots fronting on the surrounding roads, and a subdivision on the northwest side of Metro Road North. As the Plan indicates, "To determine the precise settlement area boundaries, reference should be made to official plans" (Section 3.4.1).

***Lake Simcoe Protection Plan***

15. The Lake Simcoe Protection Plan (2009) is applicable.
16. The Protection Plan does not designate lands. It recognizes MLE as an "existing settlement area" because it was so designated in the applicable official plans.

***York Region Official Plan***

17. The Regional Municipality of York Official Plan (2010 - April 2016 consolidation) is applicable.
18. The Regional Official Plan:
  - ▶ Identifies all of MLE as Towns and Villages (Maps 1, 2, 3, 4, 5, 6, 8, and 11; preamble to Towns and Villages section of Chapter 5).
  - ▶ Identifies a small part of MLE as within the Regional Greenlands System (Map 2).
  - ▶ Identifies much of MLE as within Provincially Significant and Provincial Plan Area Wetlands (Map 4).

- ▶ Identifies most of MLE as within Woodlands (Map 5).
19. As with the Greenbelt Plan, the Regional Official Plan identifies as Towns and Villages an area larger than the subject lands. As the Official Plan indicates, "the boundaries and facilities identified on Maps 1 to 12 are intended to indicate the general location. Exact boundaries shall be defined in local official plans and zoning by-laws" (Section 8.4.3).

***Georgina Official Plan (2002)***

20. As a result of the appeal before the Board, the following provisions of the Town of Georgina Official Plan (2002 - October 1, 2010 consolidation) applicable to MLE remain in effect. Except as indicated, these provisions have essentially the same effect as the appealed provisions of the 2016 Official Plan, indicated in parentheses below:
- Schedule A (Schedule A2)
  - Section 3.20 (Section 7.2 - Section 7.2.22 has been updated to reflect currently applicable plans)
  - Section 5.3.1.6 (the second of two sections numbered 9.3.9.1 - has been updated to include reference to water and sewage allocation agreement).
21. The key effects of these provisions, proposed to be continued in the 2016 Official Plan, may be summarized as follows (this is not a complete list of provisions or their effects). Section references are to the 2016 Plan.
- ▶ MLE is designated as Urban Residential Area. (The area so designated is larger than the subject lands on 2002 Schedule A, but coincides with the subject lands on 2016 Schedule A2.)
  - ▶ MLE is intended to be a "self-contained recreational residential retirement community" (7.2.1).
  - ▶ "Development shall be by one plan of subdivision of two lots wherein one lot will contain the entire retirement community and the other lot shall contain a single family detached dwelling" (7.2.2(b)).
  - ▶ "The community shall be marketed and develop as a retirement community without children living in the community on a permanent basis" (7.2.2(m)).
  - ▶ Dwellings must be single-family detached. The Plan permits "manufactured dwelling units (mobile homes) . . . with a minimum of double width, transported to the site, placed on foundations and left on site as permanent dwelling units", but does not prohibit any other type of construction (7.2.2(a)).
  - ▶ Development is limited to 1,073 units, "[assuming] a population of 2,200"

(7.2.19).

- ▶ Servicing capacity is granted for 737 units (phases 1 through 3), "based on 2 persons per unit". That the allocation of this capacity is subject to availability, has been added in the 2016 Plan. Allocation of capacity for the remaining 336 units (phases 4 and 5) is subject to a future decision of Council based on stated criteria (7.2.2(h), 9.3.9.1).
- ▶ The zoning bylaw for the site is to apply holding provisions to phases 3 through 5. The holding provisions will not be lifted until Council is satisfied, through monitoring, that the environmental, traffic, and social services impacts of earlier phases are acceptable. Public meetings will be held and public input solicited on removal of the holding provisions (7.2.6-7.2.8).
- ▶ Minimum dwelling floor area is 100 m<sup>2</sup> and the intent is dwellings be "2 bedroom style". Communal garages are not allowed (7.2.18, 7.2.2(j)).
- ▶ As a condition of subdivision approval, a surveyor's reference plan was to be filed, showing dwelling sites, roads, golf course, etc. (7.2.2(b)). No such plan has been filed as of yet.
- ▶ A golf course is required. Phase 1 of the development is to include nine holes plus a recreation centre (7.2.1, 7.2.2(e)).
- ▶ Municipal water and sewage services will be extended to MLE from Keswick. Ownership of the water and sewage systems within MLE was to be determined as part of approval of the two-lot subdivision. The developer is responsible for system maintenance, while the Town is responsible for operating sewage pumping stations. If the developer owns the systems but fails to maintain the systems satisfactorily or decides to subdivide the development, the Town will assume ownership (7.2.2(h), 7.2.2(i), 7.2.21, 9.3.9.1).
- ▶ A stormwater management program, including baseline data collection and continuing monitoring, is required and is described in detail (7.2.9, 7.2.10, 7.2.20).
- ▶ Internal roads are private, though to be built to municipal standards. Internal garbage collection is private (7.2.2(k), 7.2.2(l)).

### ***Georgina Official Plan (2016)***

22. In 2013, the Town of Georgina initiated a review of the 2002 Official Plan in accordance with Sections 26 and 27 of the *Planning Act*, culminating in adoption of the new Plan by Council and its approval by York Region Council in 2016.

23. The new Official Plan (2016 - November 7, 2017 consolidation) took effect on November 23, 2016 and is applicable, except for the MLE provisions under appeal, and other provisions under appeal none of which are pertinent to MLE.
24. In addition to the provisions described in paragraph 21, the Town Official Plan:
  - ▶ In terms of municipal structure, identifies MLE as Towns and Villages, and a small part of it as within the Greenlands System (Section 1.7, under appeal, and Schedule A1).
  - ▶ In terms of key natural heritage features, identifies most of MLE as woodland, wetland, or both, and a small part of it as within the Greenlands System (Schedule B1).
  - ▶ In terms of key hydrologic features, identifies much of MLE as wetland (Schedule B2).
  - ▶ Includes MLE's projected population growth as part of the Town's population forecast (Section 3.1.7, under appeal).
25. The 2016 Official Plan also contains an updated Section 7.2.22 that requires any Official Plan amendment application that would revise the existing MLE special provisions to consider the policies of the 2005 Greenbelt Plan, the 2006 Growth Plan for the Greater Golden Horseshoe, the 2009 Lake Simcoe Protection Plan, and the York Region Official Plan, as amended, and the functions, attributes and linkages of the significant natural features as identified on the schedules of the Town Official Plan. Any such application will be evaluated in accordance with the provisions of this Town Official Plan.

### ***Georgina Comprehensive Zoning Bylaw***

26. The Town of Georgina Comprehensive Zoning Bylaw 500 was most recently consolidated March 15, 2013 (maps updated to November 2012), and that version will be relied on except as noted below.
27. The bylaw zones almost all of MLE into Low Density Urban Residential (R1) and Open Space (OS) zones. A small part of MLE is zoned Rural (RU).
28. The R1 zones consist of four special zones, R1-23-1 through R1-23-4, with special provisions. Portions of the R1-23-3 and R1-23-4 zones are also subject to holding provisions. The Open Space zone is a special zone, OS-7, with special provisions. The Rural zone is not subject to special provisions (the bylaw schedule shows this area as special zone RU-95, but there is no corresponding special provision in the bylaw text).
29. Comparison of the bylaw schedule with earlier versions indicates that there has

been a mapping error during the consolidation process, and that portions of what is currently indicated as the OS-7 zone should properly be zoned R1-23-2 through R1-23-5, and that all of the R1-23-3 through R1-23-5 zones should be subject to holding provisions.

30. The permissions for the R1-23 zones (Section 7.5.19 of the bylaw) may be summarized as follows.

- ▶ The only permitted purpose is a "manufactured dwelling park", with characteristics consistent with those stated in the Official Plan: a single lot with sites described on a reference plan, on which are located manufactured or other dwellings, "all as parts of a self contained recreational, residential, retirement community".
- ▶ The only permitted uses are:
  - one storey single detached dwellings, which may be manufactured or otherwise,
  - up to 15 dwellings, presumably for sales purposes, that may be erected before a subdivision agreement is executed, but which otherwise must conform with the permitted use (since a subdivision agreement has been executed, this permission is moot),
  - accessory structures.
- ▶ Regulations for sites:
  - 350 m<sup>2</sup> minimum area
  - 15 m minimum private road frontage
  - 1.5 m minimum front and side yards
  - 3 m minimum rear yard
  - 60% maximum site coverage.
- ▶ Regulations for dwellings:
  - 100 m<sup>2</sup> minimum floor area
  - 11 m x 7 m minimum length/width
  - 5 m maximum height.
- ▶ The R1-23 zones include the road allowances for the internal private roads, which are 20 m for major roads and 15 m for minor roads.
- ▶ Parking may be located on sites or within the road allowance.
- ▶ The following are prohibited:
  - "facilities, uses and structures specifically designed toward the use

for [sic] children",

- communal garages.

- ▶ The bylaw does not include criteria for the removal of the holding provisions. Until those provisions are removed, the lands subject to them may only be used for agricultural, conservation, or forestry uses, or a private park.

31. The permissions for the OS-7 zone (Section 27.5.7 of the bylaw) may be summarized as follows.

- ▶ Permitted uses are:
  - agriculture and forestry
  - various recreational uses, including golf course
  - various local commercial and site service uses
  - accessory structures.
- ▶ Height limit is 11 m.
- ▶ Setbacks from private roads and residential sites, and from public roads and residential lots outside the development, are prescribed for certain uses.
- ▶ "Facilities, uses and structures specifically designed and oriented for children" are prohibited.

## **PART B - REMAINING ISSUES IN DISPUTE**

All of the issues set out in the Procedural Order are matters of opinion as to the interpretation of the *Planning Act* and the applicable planning documents. These issues remain in dispute. The planning witnesses will provide the Board with their opinion evidence on these issues.

No matters of fact are in dispute.

\* \* \*

Agreed by: Sara Brockman, RPP; James Dymont, RPP; Keith MacKinnon, RPP; Anthony Usher, RPP. The witnesses will confirm their agreement to this document by email.

**APPENDIX 1 - CHRONOLOGY OF EVENTS, MAPLE LAKE ESTATES**

Date	Event
<p><i>NOTE:</i> From 2013 on, some events occurred in the context of the possible transfer of the Maple Lake Estates development approvals to other sites in the Town of Georgina. These other sites, and potential applications for their development, are not before the OMB, and so are only referred to where absolutely necessary.</p>	
Early 1980s	Bertan Investments Ltd. submits an application to amend the Town's OP to permit the proposed Maple Leaf Estates ("MLE") development.
19 October 1984	Town Council approves the OPA application (passes By-law 84-148) and adopts it as OPA 10. As per the <i>Planning Act</i> of the day, prior to approval by the Minister of Municipal Affairs ("MMA" or "MMAH"), parties subsequently ask the Minister to refer OPA 10 to the OMB, and a hearing is held.
3 March 1987	OMB decision issued. OPA 10 is approved with certain modifications. The OPA redesignates the subject site as "Urban Residential Area". As per the <i>Planning Act</i> of the day, parties subsequently appeal decision to Cabinet.
8 October 1987	Town Council passes Zoning By-law 911-87-431 to permit MLE as a Recreational Residential Park consisting of a maximum of 1073 dwellings.
28 January 1988	OMB decision is upheld by the Provincial Cabinet through Order-in-Council 232-88.
30 June 1988	Draft Plan of Subdivision approval issued by York Region for file No. 19T-87055. All draft plan conditions were fulfilled and the subdivision was cleared for registration.
18 August 1992	Two-lot subdivision plan and Town and York Region subdivision agreements registered (Plan 65M-2903; agreements registered as Instruments LT 857638 and LT 857639).



Date	Event
Early 1990s	<p>Bertan pays expenses related to extension of municipal water services to the site including:</p> <ul style="list-style-type: none"> <li>a. \$1,154,366.64 paid to York Region for construction of Deer Park Road elevated water storage tank.</li> <li>b. \$897,202.54 paid to York Region for construction of a trunk watermain between Keswick Water Treatment Plant and subject site.</li> <li>c. \$20,857.16 paid to York Region as additional costs for final design of tank and water main.</li> </ul>
22 April 1993	Amending agreement to Town subdivision agreement is registered as Instrument LT 907271.
17 October 1994	The York Region Official Plan, 1994 takes effect. The Plan designates as Towns and Villages the lands, including MLE, that were already designated as Urban Residential by the Town's OPA 10. The Towns and Villages designations on these specific lands was initially deferred and came into force in mid 1995.
21 May 1996	By-law No. 96-055 authorized execution of agreement between Town and Bertan revoking water and sewer allocation.
22 May 1996	What becomes known as the 1997 Provincial Policy Statement takes effect.
24 October 1996	Amending agreement to Town subdivision agreement is registered as Instrument LT 1132140.
5 May 1999	Maple Lake Estates Inc., an affiliate of Metrus Development Inc. (now DG Group), acquires subject lands from Bertan. Proposed development known henceforward as Maple Lake Estates ("MLE").
2004	Maple Lake Estates Inc. pays Town \$1,307,080.48 for the construction of a sanitary sewer to service MLE site as part of Town's Willow Beach and Surrounding Lakeshore Communities Water and Sewer Project.

Date	Event
18 May 2004	Letter from the Ministry of Natural Resources ("MNR") to the Town indicates wetland evaluation has been completed in relation to the Paradise Beach-Island Grove Wetland Complex which includes the MLE lands and is deemed to contain Provincially Significant Wetlands.
October 2004	Draft Greenbelt Plan proposes to designate MLE lands Protected Countryside.
18 October 2004	MNR writes Metrus re inclusion of part of MLE lands in Paradise Beach-Island Grove PSW, recognizing existence of prior development approvals on MLE lands.
7 December 2004	Town Council considers staff report PB-2004-0110 commenting on Draft Greenbelt Plan and among other things, asks Province to designate MLE as Towns and Villages.
16 December 2004	The Greenbelt Plan (issued February 2005) takes effect. The Plan designates the MLE lands as Towns and Villages.
1 March 2005	The Provincial Policy Statement, 2005 comes into effect.
2006	Maple Lake Estates Inc. pays Town \$119,745.00 in local improvement frontage charges related to sanitary sewage construction on account of the MLE lands.
16 June 2006	The Growth Plan for the Greater Golden Horseshoe comes into effect. The MLE lands are located within the "Greenbelt Area" as depicted on Schedule 1 of the Plan.
7 September 2010	The York Region Official Plan, 2010 (YROP-2010) was approved by the Minister and subsequently appealed. Subsequently, the OMB issued a number of Orders in relation to the YROP-2010. The YROP-2010 replaces the former York Region Official Plan approved in 1994. The YROP-2010 designates the MLE lands as Towns and Villages.
28 September 2010	Metrus appeals entire YROP-2010 because of policy implications for MLE and other properties.

Date	Event
28 September 2011	Maple Lake Estates Inc. attends pre-consultation meeting with Town re prospective OPA and ZBA to change development permissions for MLE lands.
10 November 2011	Maple Lake Estates Inc. attends second pre-consultation meeting with Town to discuss application submission requirements.
10 July 2012	Following negotiations that do not result in any settlement, Metrus withdraws appeal of YROP-2010 with respect to MLE.
11 July 2012	As a result of partial approval by the OMB, portions of YROP-2010 come into force, including those pertinent to MLE .
22 October 2012	Town Council authorizes staff to commence review of the Town's Official Plan as applied to areas outside of certain Secondary Plan areas.
31 December 2012	North Gwillimbury Forest Alliance ("NGFA") asks Town to enact interim control bylaw to prohibit development on MLE and other lands.
28 January 2013	Town Council considers staff report PB-2013-0010 regarding the interim control bylaw request, including January 18, 2013 letter from Town solicitor, and hears deputations for and against. Council directs staff to present an updated report at its next meeting (later rescheduled to March 25, 2013).
1 February 2013	NGFA submits letter from its planner responding to Town staff report PB-2013-0010.
5 February 2013	Metrus writes Town opposing interim control bylaw affecting MLE.
14 February 2013	Letter to Town from York Region Planning outlining the Region's position on conformity of MLE with YROP-2010, which is that the Plan's transition provisions recognize the existing development approvals and provide for development in accordance with them.
25 March 2013	Town Council considers staff report PB-2013-0032, including March 15, 2013 letter from Town solicitor, regarding the interim control bylaw request, and hears deputations for and against. Council directs staff to meet with interested parties and report back within 60 days.

Date	Event
24 June 2013	Town Council considers staff report PB-2013-0062 re MLE development alternatives. Council is advised Maple Lake Estates Inc. is willing to exchange existing approvals for equivalent approvals on other lands it owns. Council directs staff to report back on further developments.
8 November 2013	NGFA's planner writes Town advising of interest in Town OP review
14 November 2013	Public Workshop No. 1 for the Town OP review.
11 December 2013	Statutory special Council meeting to initiate Town OP review. NGFA's planner makes submission. Maple Lake Estates Inc.'s planner makes written submission.
20 December 2013	NGFA's planner makes written submission to Town OP review focussing on MLE as a growth and settlement issue.
January 2014	Open Houses held for the Town OP review.
19 February 2014	York Region, Town, MMAH, Lake Simcoe Region Conservation Authority ("LSRCA"), Metrus, and NGFA planners, lawyers, and other representatives meet to discuss development approvals exchange alternatives.
14 March 2014	OP Planning Policy Review Report (MHBC) issued.
20 March 2014	NGFA's planner makes written submission to Town OP review discussing development approvals exchange possibilities in context of the review.
24 March 2014	Second Public Workshop for the Town OP review.
23 April 2014	York Region, Town, MMAH, Metrus and NGFA planners and lawyers meet to discuss development approvals exchange alternatives.
30 April 2014	The Provincial Policy Statement, 2014 comes into effect.
8 May 2014	NGFA's planner makes written submission to Town OP review commenting on Planning Policy Review Report.

Date	Event
4 June 2014	Planning Directions OP Background Report issued by Town.
21 and 22 August 2014	NGFA's lawyer and planner make written submissions (August 21 and 22 respectively) to Town OP review commenting on Planning Directions report.
12 February 2015	LSRCA requested clarification from MNRF with respect to the applicability of the Ministry's letter from October 18, 2004 in relation to the permit process under the <i>Conservation Authorities Act</i> .
11 March 2015	MNRF responds to LSRCA letter dated 12 February 2015, stating that the Ministry's October 18, 2004 letter re the PSW on the MLE lands has been superseded by LSRCA's authority under the <i>Conservation Authorities Act</i> .
April 2015	Draft Town OP released.
13 May 2015	Town Staff Report PB-2015-0026 re 2015 Coordinated Land Use Planning Review of Greenbelt Plan and other Provincial plans. Its recommendations, approved by Council, include request that Province redesignate the MLE lands to Greenbelt Protected Countryside in forthcoming new Greenbelt Plan in the context of a transfer of development approvals to an alternate site in the Town.
20 May 2015	Maple Lake Estates Inc. submits <i>Conservation Authorities Act</i> Section 28 application to the LSRCA.
21 May 2015	Third (Statutory) Open House for the Town OP review.
21 May 2015	NGFA asks Province to redesignate MLE lands to Greenbelt Protected Countryside in forthcoming new Greenbelt Plan.
25 May 2015	Maple Lake Estates Inc.'s planner makes written submission to the Province to include the development rights exchange to other lands owned by MLE in forthcoming new Greenbelt Plan.
24 July 2015	Maple Lake Estates Inc.'s planner makes written submission to Town OP review commenting on existing designations.

Date	Event
30 July 2015	NGFA's planner makes written submission to Town OP review commenting on Draft OP and recommending changes to MLE designations and policies.
14 October 2015	Statutory Public meeting re OP review.
April 2016	Proposed Town OP released.
18 April 2016	NGFA's planner makes written submission to Town OP review commenting on Proposed OP and recommending changes to MLE designations and policies.
20 April 2016	<ol style="list-style-type: none"> <li>1. Second statutory public meeting for Town OP review.</li> <li>2. Town Staff Planning Report DS-2016-0029 recommending adoption of Proposed Town OP April 2016.</li> <li>3. Resolution No. C-2016-0192 adopted by Town Council which includes the following directions: <ol style="list-style-type: none"> <li>a. Received Planning Staff Report DS-2016-0029.</li> <li>b. Passage of By-law adopting OPA 129.</li> <li>c. Provide Notice of Adoption.</li> <li>d. Forward copy of Planning Staff Report DS-2016-0029 to Chief Planner of York Region and CAO of LSRCA.</li> </ol> </li> </ol>
27 April 2016	Town Council adopts new OP (OPA 129).
7 July 2016	Letter to the Chief Planner of York Region from NGFA's planner attaching prior written submissions to the Town regarding OPA 129 and requesting modifications as per letter of April 18, 2016.
13 July 2016	Letter dated July 13, 2016 from Chair of NGFA to York Region Chair and Members of Council requesting York Region to amend OPA 129 to prohibit development on MLE lands.
11 October 2016	Letter from NGFA's lawyer regarding October 13, 2016 Committee of the Whole Meeting, commenting on Proposed Town OP and recommending York Region modifications of MLE designations and policies.

Date	Event
13 October 2016	York Region Committee of the Whole considers staff report recommending approval with modifications of Proposed Town OP, and asks for an additional recommendation.
20 October 2016	York Region Council approves Town of Georgina Official Plan, OPA 129 with modifications. Council also approves the additional recommendation it requested, which advocates removal of Greenbelt Plan Towns and Villages designation as part of a development approvals transfer.
2 November 2016	Notice of Decision issued by York Region approving OPA 129 with modifications.
15 November 2016	Letter from York Region Chair to Minister of Municipal Affairs with respect to York Region Council's request regarding the additional recommendation.
17 November 2016	NGFA appeals certain provisions of approved Town OP pertaining to MLE.
12 January 2017	In response to York Region's November 15, 2016 letter communicating the additional recommendation, MMA Minister writes York Region advising there will be no changes in Greenbelt Plan designations involving MLE.
21 February 2017	Town writes MMA Minister again requesting removal of Greenbelt Plan Towns and Villages designation of MLE in the context of a transfer of development approvals to another site in the Town.
2 May 2017	Maple Lake Estates Inc. submits new <i>Conservation Authorities Act</i> Section 28 application to the LSRCA.
1 July 2017	The Growth Plan for the Greater Golden Horseshoe, 2017 and the Greenbelt Plan, 2017 come into effect with no change to the designation of the MLE lands.