

ISSUE DATE:

July 25, 2013



PL091167

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	County of Simcoe
Appellant:	Midhurst Development Doran Road Inc., and Carson Road Development Inc.
Appellant:	Midhurst Rose Alliance Inc.
Appellant:	Township of Springwater
Subject:	Failure of the Ministry of Municipal Affairs and Housing to announce a decision respecting the Official Plan for the County of Simcoe
Municipality:	County of Simcoe
OMB Case No.:	PL091167
OMB File No.:	PL091167

APPEARANCES:

See Attachment 1

MEMORANDUM OF ORAL DECISION DELIVERED BY M. A. SILLS AND SYLVIA SUTHERLAND ON JUNE 20, 2013 AND ORDER OF THE BOARD

[1] This was the third pre-hearing conference (“PHC”) related to the new County of Simcoe Official Plan (“OP”) and the Growth Plan for the Greater Golden Horseshoe (“GP”) conformity exercise for the County of Simcoe (“County”).

[2] The List of Attendees at this PHC is found at Attachment 1 appended to this order. The list of Appellant Parties, followed by the List of Parties is found at Attachment 2 to this order.

[3] The Participant’s List was finalized at this PHC and is appended to this order as Attachment 3.

[4] The following status requests were dealt with:

- confirmation of Sandycove Acres Limited (previously identified as 1651012 Ontario Ltd.) as party No. V
- confirmation of the request by Hanson Development Group to be added as Appellant Party 31

[5] The Board also approved the requested substitution of four pages (Exhibit 33) of legal descriptions for three pages found in Attachment 4 of the June 13, 2013 Board decision. This has been done by an amending decision issued July 5, 2013.

[6] A draft Procedural Order ("PO") No. 1 (Exhibit 31) was submitted and certain modifications were made at the PHC. The Board endorsed the amended PO, a clean copy of which was submitted to the Board and appended as Attachment 4 to this order.

[7] The finalized issues lists remain outstanding and are to be submitted by Tuesday, July 2, 2013 to be considered as part of PO No. 2 at the next PHC. New or revised issues lists were received from the following:

1. Estate of Marie Louise Frankhom (Appellant Party 15)
2. Town of Innisfil (Party D)
3. Sandycove Acres Limited (Party V)
4. AMJC (Appellant Party 29)
5. Tesmar Holdings Inc. (Appellant Party 10)
6. Hanson Development Group (Somerset Gables Inc.) (Appellant Party 31)
7. Town of Midland (Party F)

[8] Mr. Beaman, counsel for the County, drew to the Board's attention that there are several instances of claims being made for transition rights, requests for transfer of appeals to local venues, or requests that local matters be brought into the County

proceeding for deliberation. He felt that such matters would benefit from Board Mediation at the earliest opportunity. The Board directed that such requests be made to the Board according to the Board's Rules of Practice and Procedure and be copied to the Associate Chair of the Board, Wilson Lee.

[9] The Board also heard a motion by the County to dismiss the appeal of the Midhurst Ratepayers' Association, which will be dealt with in a separate decision.

ORDER

[10] Two days, **Thursday, August 29, 2013 and Friday, August 30, 2013** have been set aside for a third PHC on this matter.

[11] This PHC will commence at **10 a.m. on Thursday, August 29, 2013** at:

**County Administration Building
Council Chambers
1110 Highway 26
Midhurst, ON**

[12] No further notice will be given.

"M. A. Sills"

M. A. SILLS
MEMBER

"Sylvia Sutherland"

SYLVIA SUTHERLAND
MEMBER

ATTACHMENT 1

**Simcoe County Official Plan Prehearing Conference #3
List of Attendees June 20, 2013**

Counsel/Representative	Appellant/Party/Participant
Roger Beaman/David Germain	Appellant 1
Jeff Davies	Appellants 2a, 2b
Cory Estrela/A. D'Andrea (student-at-law)	Appellants 8a, 8c, 8d, 8e, 8f, 8g, 11, 12a, 12b, 13, 14, 21, 22, 23, 24, 25, 26
Brent Spagnol*/Robert Brindley*	Appellant 6
Edward Veldboom	Parties C1, C2
Quinto Annibale/Mark Joblin	Party D
Leo Longo	Appellant 30, Party B
Leo Longo (for Tom Halinski)	Party E
Wes Crown*	Party F
Ian Rowe/Adrianna Pilkington	Appellant 17, Parties G1, G2, G3, V, X
James Feehely	Appellant 7, Party H
Stephen Waqué	Party I
Ken Hare/Soojin Lee	Party A
Tanya Nayler	Appellants 3, 4
Ira Kagan/Paul DeMelo	Appellant 5
Jennifer Meader	Appellant 10
Jennifer Drake	Appellant 15
David Strachan*/Margaret Hutchison*	Appellant 16
Patricia Foran	Appellant 18
Chris Barnett	Appellants 27a, 27b
Caterina Facciolo	Appellants 28, 29, Party M
Brian Goodreid*	Appellants 19a, 19b
Mary Bull/Alexandra Sadvari	Parties J1, J2, J3, J4, J5, J6, K
Michael Vaughan	Party L
John Dawson	Party P
John Barzo	Party Q
Susan Rogers	Party R
Harold Elston	Parties S, T
Sandy Agnew*	Participant 1
Ann Romano*	Participant 3
Raivo Uukkivi	Participant 5
Paolo Sacilotto*	Participant 6
Bernard Pope*	Participant 8
Anne Ritchie-Nahuis*	Participant 9
Wendy Harry*	Participant 10
Chantale Gagnon*	Participant 11
Marvin Geist	Participant 13
John Strong*	Participant 16

***Agent**

ATTACHMENT 2

LIST OF APPELLANT PARTIES– COUNTY OF SIMCOE OFFICIAL PLAN PL091167

No.	Appellant	Lawyer/Agent	E-mail Address
1	County of Simcoe	Roger Beaman	rbeaman@thomsonrogers.com
2	2a Carson Road Development Inc. 2b Midhurst Development Doran Road Inc.	Susan Rosenthal David White	susanr@davieshowe.com david.white@devrylaw.ca
3	Craighurst Land Corp.	Susan Rosenthal	susanr@davieshowe.com
4	Huntingwood Trails (Collingwood) Ltd.	Susan Rosenthal Tanya Nayler	susanr@davieshowe.com tanyan@davieshowe.com
5	Midhurst Rose Alliance Inc.	Ira Kagan Paul DeMelo	ikagan@ksllp.ca pdemelo@ksllp.ca
6	Township of Springwater	Barnet Kussner	bkussner@weirfoulds.ca
7	451082 Ontario Limited	James Feehely	jfeehely@feehelygastaldi.com
8	8a 861945 Ontario Ltd. 8b Golfview Estates Limited W/D 8c Mark Rich Homes Limited 8d Silver Spring View Estates Limited 8e Simcoe Estates Limited 8f Royal Heights Estates Limited 8g OMC Development Corp.	David White Cory Estrela	david.white@devrylaw.ca cory.estrela@devrylaw.ca
9	Innisfil Alcona Limited [Withdrawn]	Lynda Townsend Jennifer Meader	lyn.townsend@ltownsend.ca jennifer.meader@ltownsend.ca
10	Tesmar Holdings Inc.	Lynda Townsend Jennifer Meader	lyn.townsend@ltownsend.ca jennifer.meader@ltownsend.ca
11	Janice & David Wright	David White Cory Estrela	david.white@devrylaw.ca cory.estrela@devrylaw.ca
12	12a Snow Valley Planning Corporation 12b 453211 Ontario Limited	David White Cory Estrela	david.white@devrylaw.ca cory.estrela@devrylaw.ca
13	McMahan Woods Developments Ltd.	David White Cory Estrela	david.white@devrylaw.ca cory.estrela@devrylaw.ca
14	Innisfil Beach Farms Inc.	David White Cory Estrela	david.white@devrylaw.ca cory.estrela@devrylaw.ca
15	Estate of Marie Louise Frankcom	David Bronskill Jennifer Drake	dbronskill@goodmans.ca jdrake@goodmans.ca
16	Midhurst Ratepayers' Association [incorporated body]	David Strachan* Margaret Hutchison*	davidstrachan@yahoo.com mhutchis1000@gmail.com
17	Narinder Mann	Ian Rowe Adrianna Pilkington	irowe@barristonlaw.com apilkington@barristonlaw.com
18	Yorkwood Group of Companies	Patricia Foran	pforan@airdberlis.com
19	19a Rama Resorts International Inc. 19b Fernbrook Homes (Rama) Limited	Brian Goodreid*	briangoodreid@hotmail.com

20	1091402 Ontario Ltd. [Withdrawn]	David White Cory Estrela	david.white@devrylaw.ca cory.estrela@devrylaw.ca
21	Nicole and Brent Fellman	David White Cory Estrela	david.white@devrylaw.ca cory.estrela@devrylaw.ca
22	Travel-Rite Property Corp.	David White Cory Estrela	david.white@devrylaw.ca cory.estrela@devrylaw.ca
23	Aqua-Gem Investments Ltd.	David White Cory Estrela	david.white@devrylaw.ca cory.estrela@devrylaw.ca
24	442023 Ontario Limited	David White Cory Estrela	david.white@devrylaw.ca cory.estrela@devrylaw.ca
25	1045901 Ontario Limited	David White Cory Estrela	david.white@devrylaw.ca cory.estrela@devrylaw.ca
26	Kellwatt Limited	David White Cory Estrela	david.white@devrylaw.ca cory.estrela@devrylaw.ca
27	27a Ontario Potato Distributing Inc. 27b 1567219 Ontario Limited	Chris Barnett	cbarnett@davis.ca
28	Black Marlin Management Inc.	Caterina Facciolo Barry Horosko	cfacciolo@bratty.com bhorosko@bratty.com
29	Ahmadiyya Muslim Jama'at Canada Inc. (AMJC)	Caterina Facciolo Barry Horosko	cfacciolo@bratty.com bhorosko@bratty.com
30	D.G. Pratt Construction Limited	Jane Pepino Andrea Skinner	jpepino@airdberlis.com askinner@airdberlis.com
31	Hanson Development Group	Patricia Foran	pforan@airdberlis.com

*Agent

LIST OF PARTIES– COUNTY OF SIMCOE OFFICIAL PLAN PL091167

No.	Party	Representative/Agent	E-mail Address
A	Ministry of Municipal Affairs and Housing	Ken Hare Soojin Lee	ken.hare@ontario.ca soojin.lee@ontario.ca
B	Town of Collingwood	Leo Longo	llongo@airdberlis.com
C	C1 Town of Penetanguishene C2 Township of Ramara	Edward Veldboom	eveldboom@russellchristie.com
D	Town of Innisfil	Quinto Annibale	qannibale@loonix.com
E	Town of Bradford West Gwillimbury	Tom Halinski	thalinski@airdberlis.com
F	Town of Midland	Paul Peterson	ppeterson@hgrgp.ca
G	G1 Township of Clearview G2 Township of Tiny G3 Town of Wasaga Beach	Ian Rowe Adrianna Pilkington	irowe@barristonlaw.com apilkington@barristonlaw.com
H	Town of New Tecumseth	James Feehely	jfeehely@feehelygastaldi.com
I	Township of Adjala-Tosorontio	Christel Higgs Stephen Waqué	chiggs@blg.com swaque@blg.com
J	J1 Ontario Stone, Sand and Gravel Association J2 CBM Aggregates, a division of St. Marys Cement (Canada) Inc. J3 Lafarge Canada Inc. J4 Holcim (Canada) Inc. J5 James Dick Construction Limited J6 Walker Aggregates Inc.	Mary Bull Alexandra Sadvari	mbull@woodbull.ca asadvari@woodbull.ca
K	Georgian International Land Corp.	Mary Bull Alexandra Sadvari	mbull@woodbull.ca asadvari@woodbull.ca
L	San Marco in Lamis Ltd.	Michael Vaughan	michaelbvaughan@yahoo.ca
M	White Water Holdings Ltd.	Barry Horosko Caterina Facciolo	bhorosko@bratty.com cfacciolo@bratty.com
N	N [Now Appellant 28]		
O	No Jet Construction Inc. Remington Homes (Manhattan) Inc. [Withdrawn]	Caterina Facciolo Barry Horosko	efacciolo@bratty.com bhorosko@bratty.com
P	Sleeping Lion Development Corporation	John Dawson	jdawson@mccarthy.ca
Q	John Barzo Limited	John Barzo	jbarzo@barzolaw.com
R	Innisfil Mapleview Developments Limited	Susan Rogers	susan.rogers@sdrogerslaw.ca
S	2133952 Ontario Inc.	Harold Elston	harold@elstons.ca
T	Talisker Corporation	Harold Elston	harold@elstons.ca
U	U1 and U2 [Now Appellant 27]		
V	1651012 Ontario Ltd. now Sandycove Acres Limited	Ian Rowe Adrianna Pilkington	irowe@barristonlaw.com apilkington@barristonlaw.com
W	Township of Oro-Medonte	Chris Williams Andria Leigh	cwilliams@airdberlis.com aleigh@oro-medonte.ca
X	998991 Ontario Inc.	Ian Rowe Adrianna Pilkington	irowe@barristonlaw.com apilkington@barristonlaw.com

ATTACHMENT 3

LIST OF PARTICIPANTS -- COUNTY OF SIMCOE OFFICIAL PLAN PL091167

No.	Interest/Participant	Representative/Agent	E-mail Address
1	AWARE Simcoe	Sandy Agnew William French Alec Adams David Collacut Tom Kurtz Debbie Major Ann Truyens Constance Spek	sagnew@ecomedic.ca bill.french@hotmail.com alec.adams@rogers.com dave@collacutt.ca tom.kurtz@sympatico.ca debbie@datadirect.ca at@iglide.net spek.family@gmail.com
2	PURE	Chantale Gagnon Linda Gaspar David Perryman	chantalegagnon@bell.net chickenqueen17@yahoo.ca dperryman43@sympatico.ca
3	(Midhurst)	Ann Romano	am_romano@hotmail.com
4	Twp Oro Medonte	<i>[Now Party W]</i>	
5	Tsam Investments Ltd.	Raivo Uukkivi Signe Leisk	ruukkivi@casselsbrock.com sleisk@casselsbrock.com
6	Walton Development and Management L.P.	Jason Child Paolo Sacilotto	jchild@walton.com psacilotto@walton.com
7	(Midhurst)	Paul Frankeom	Withdrawn
8	Ontario Farmland Preservation	Bernard Pope	bernard@ontariofarmlandpreservation.org
9	Simcoe County Federation of Agriculture	Colin Elliott Anne Ritchie-Nahius	rockeynol32@gmail.com nahuis@csolve.net
10	Angus Ratepayers Association	Wendy Harry Archie Duckworth	TCB4E@primus.ca marg_archie@hotmail.com
11	11a Nutristock Corporation 11b Solmar (Healy) Corporation (App 27a, 27b)	Jennifer Meader	jennifer.meader@ltownsend.ca
12	Township of Severn	Henry Sander	hsander@townshipofsevern.com
13	K. Winter Sanitation Inc. Kenneth and Ruth Winter	Marvin Geist	marvin@marvingeist.ca
14	(ANSI – Oro-Medonte)	Joe & Ruth-Ann Langman	ruthannlangman@gmail.com
15	(ANSI – Severn)	Don & June Bickell	paniswickweld@aol.com
16	John Strong	John Strong	No e-mail given; 705-424-9350 6760 Simcoe County Road 21 Essa Township, Ontario, L9R 1V2
17	Clearview Community Association	Janet Gillham	gillham2@bell.net
18	(App 27a, 27b)	Ralph MacKenzie	905-729-3984
19		Kevin Newman	k.newman@rogers.com
20		Jill Appleby	
21	(Midhurst)	Sandy Buxton	s.buxton@rogers.com
22	R & M Homes Limited (Everett)	Cory Estrela	cory.estrela@Devrylaw.ca
23	285622 Ontario Ltd. (MIDVES II)	Emil Mlinarevic	emilm@millersonconsulting.com
24		Bette Bull	

ATTACHMENT 4

PL091167

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 451082 Ontario Limited
Appellant: 861945 Ontario Ltd. et al
Appellant: County of Simcoe
Appellant: Estate of Mary Louise Francom; and others
Subject: Failure to announce a decision respecting Proposed
Official Plan Amendment 43-OP-2008
Municipality: Upper Tier of Simcoe
OMB Case No.: PL091167
OMB File No.: PL091167

PROCEDURAL ORDER NO. 1

1. The Board may vary or add to these rules at any time, either on request of a Party or as it sees fit. It may alter this Order by an oral ruling, or by another written Order.

Organization of the Hearing

2. The hearing will begin on [TBD] at the...
3. The length of the hearing will be about [TBD] days.
4. The hearing of these appeals may be divided into separate phases at a future PHC.
5. (a) The Parties to this proceeding are listed in **Attachments A and B**. Except for deletions, there shall be no changes to these lists unless the Board permits it following written motion to the Board.

(b) The Participants to this proceeding are listed in **Attachment C**.
6. The Issues are set out in the Issues Lists filed as an Exhibit. Except for deletions, there will be no changes to this list unless the Board permits it, and a party who asks for changes may have costs awarded against it.
7. Any person intending to participate in the hearing must provide a telephone number and e-mail address to the Parties and the Board as soon as possible. Any person

who retains a representative must advise the other Parties and the Board of the representative's name, address, e-mail address and phone number as soon as possible.

Requirements Before the Hearing

8. With respect to any phase of the hearing in which they are testifying, expert witnesses in the same field ("like-experts") shall have at least two meetings (unless they agree that one meeting is sufficient) before the hearing to try to resolve or reduce the issues for the hearing. The first meeting of like experts will be scheduled for approximately two weeks after the production of Expert Witness Lists. The second meeting will take place approximately one week after the exchange of witness statements and before delivery of Reply Witness Statements. At each meeting, the like-experts must prepare a list of agreed facts and the remaining issues to be addressed at the hearing, and provide this list to all of the Parties and the County Clerk.
9. A Party who intends to call witnesses, whether by summons or not, shall provide to the Board, the other Parties and the County Clerk a list of their witnesses, their professional qualifications, their areas of expertise, completed Acknowledgements of Expert's Duty, the precise area and discipline in which they will seek to be qualified to provide expert testimony, and the intended order in which the witnesses will be called during the hearing. This information must be delivered by **[TBD]**. Any challenge by a Party to the qualifications or expertise of a witness must be filed with the Board with supporting reasons within 30 days.
10. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this statement must be provided as in section [13]. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If neither of these requirements is complied with, the Board may refuse to hear the expert's testimony.
11. A Participant must provide a participant statement to the Board and the Parties, as provided for in section [13], or the witness or participant may not give oral evidence at the hearing.
12. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the Party calling them must file a brief outline of the expert's evidence, as provided for in section [13].
13. On or before **[TBD]**, the Parties and Participants shall provide copies of their witness, expert and participant statements and brief outlines, as applicable, to the Parties and to the County Clerk.
14. On or before **[TBD]**, the Parties and Participants shall provide copies of their visual evidence to all of the Parties. If a model will be used, all Parties must have a reasonable opportunity to view it before the hearing.

15. Parties may provide to all other Parties and file with the Clerk a written response to any written evidence within 14 days after the evidence is received.

16. A person wishing to change written evidence, including witness statements, must make a written motion to the Board. Such a motion shall be in accordance with the Board's Rules 34 to 41, which require that the moving party provide copies of the motion to all other Parties 10 days before the Board hears the motion.

17. A party who has filed an expert witness statement must have the witness attend the hearing to give oral evidence, unless the Party notifies the Parties and the Board by [TBD] that the written evidence is not part of the record.

18. Documents may be delivered by e-mail, personal delivery, facsimile, courier or registered or certified mail or otherwise as the Board may direct. The delivery of documents by fax shall be governed by the Board's Rules on this subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.

19. The Board's file number **PL091167** is to be clearly marked on all documents served by the Parties or filed with the Board.

20. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Board's Rules 61 to 65 apply to such requests.

These Members are seized.

So orders the Board.

ADDITIONAL INFORMATION FOR THE PROCEDURAL ORDER

Meaning of terms used in the Procedural Order:

Party is an individual or corporation permitted by the Board to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorisation from the party.

NOTE that a person who wishes to become a party before or at the hearing, and who did not request this at the prehearing conference, must ask the Board to permit this.

Participant is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Board on all or some of the issues in the hearing. Such persons may also be identified at the start of the hearing. The Board will set the time for hearing this statement. **NOTE** that such persons will likely not receive notice of mediations or conference calls on procedural issues. They also cannot ask for costs, or review of a decision as parties can. If a participant does not attend the hearing and only files a written statement, the Board will not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file material and do not attend.

Written and Visual Evidence: **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.

Witness Statements:

A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely on at the hearing.

An **expert witness statement** is a written statement that must include: (1) The expert's name and address (2) qualifications and area of expertise, (3) The nature of the retainer, (4) A list of the issues he or she will address, (5) The expert's opinions on those issues and the complete reasons for the opinions_including an analysis of how the experts arrived at the opinion, including a policy analysis where applicable and, (6) a list of reports that the witness will rely on at the hearing.

A participant statement is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which the participant will address and a short outline of the evidence on those issues; and a list of reports, if any, which the participant will refer to at the hearing.

Additional Information

Summons: *A party must ask a Board Member or the senior staff of the Board to issue a summons. This request must be made before the time that the list of witnesses is provided to the Board and the parties. (See Rules 45 and 46 on the summons procedure.) If the Board requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing.*

If the Board is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.

The order of examination of witnesses: *is usually direct examination, cross-examination and re-examination in the following way:
direct examination by the party presenting the witness;
direct examination by any party of similar interest, in the manner determined by the Board;
cross-examination by parties of opposite interest;
re-examination by the party presenting the witness; or
another order of examination mutually agreed among the parties or directed by the Board.*