

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: July 28, 2014

CASE NO(S): PL091167

PROCEEDING COMMENDED UNDER 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
and others
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

Heard: June 2, 2014 in Midhurst, Ontario

APPEARANCES:

Parties

Counsel/Representative*

See Attachment 1

**MEMORANDUM OF ORAL DECISION DELIVERED BY M. A. SILLS AND
SYLVIA SUTHERLAND ON JUNE 2, 2014 AND ORDER OF THE BOARD**

INTRODUCTION

[1] The list of Appellants/Party/Participant Attendees at this hearing related to the Simcoe County Official Plan ("SCOP") is appended to this order as Attachment 1.

[2] This day of the hearing provided an opportunity for Participants to express their concerns with the SCOP as adopted by Simcoe County ("County") on November 25, 2008 and as subsequently modified by the County and the Board.

[3] The Simcoe County Federation of Agriculture ("SCFA"), represented by executive director Ann Ritchie-Nahuis, the Ontario Farmland Preservation ("OFP"), represented by its founder and director, Bernard Pope, and the Everett Ratepayers' Association, ("ERA"), represented by Chantale Gagnon and David Perryman, were most specific in their review of the SCOP, and written outlines of their statements are to be found in Exhibit 77, along with those of other Participants. In general terms they shared concerns regarding what the SCFA and OFP view as insufficient protection for agricultural and food land, as well as the protection of water resources. ERA expressed concern about the lack of jobs in parts of the County and maintained that growth should be tied to job creation.

[4] The overview of the SCFA and the OFP was that the SCOP fails to meet the Provincial Policy Statement ("PPS") or the Places to Grow legislation ("GP") in their protection of natural heritage, farmland and green spaces, or in curbing urban sprawl and reducing gridlock. Both were concerned with the lack of input from a rural planner to the SCOP.

[5] The Angus Ratepayers' Association ("ARA") represented by Wendy Harry, specific concern was the proposed 12 kilometre extension of a raw sewage line from the Angus sanitary sewer system to the settlement area of Baxter in Essa Township in order to service a proposed new subdivision of 250 homes, known as the Marshall Subdivision. Neither the subdivision nor the sewage line are issues before this panel of the Board.

[6] Some Participants, including AWARE SIMCOE ("AWARE"), represented by Sandy Agnew, Ann Truyens and Bill French were concerned with the population allocations in the SCOP. These were established by the Province and are beyond the purview of the Board, or the County, to change. Some felt that a firm line should be drawn between rural and urban designations. In general, the Participants were concerned about the protection of smaller communities, such as Midhurst, from the pressures of growth.

[7] Mr. Strong was concerned with the future of small farms.

[8] Mr. Agnew told the Board that, while “not necessarily opposed to what is in the plan”, specifically policies 3.5.10 and 3.5.11, AWARE felt strongly that “people have not had an opportunity to have this explained to them” and asked that the Board order the County to hold public meetings in each municipality under the County’s jurisdiction.

[9] AWARE has to be aware that, in an oral decision delivered at the second Prehearing Conference (“PHC”) on this matter held on April 19, 2013, the Board denied a motion by AWARE to adjourn the hearing to allow for public consultations in each of the County’s member municipalities. At that time, Mr. Beaman, counsel for the County, pointed out that there had been numerous public sessions of County Council held on the matter, and that the Board hearing is, in effect, a “public” meeting.

[10] The Board would now like to state the following on this matter, and will not deal with it again. There is no requirement under the *Planning Act* (“Act”) for the County to hold a public consultation on the SCOP in each member municipality. Each municipality is represented on County Council by its Mayor and Deputy Mayor. The Board has heard that the municipalities’ representatives have not consulted with their electorates on SCOP. How an elected official deals with the people he or she represents is not something the Board can direct. The public has a responsibility in this regard as well. County Council dealt with the SCOP in open sessions, which the public could attend. The public can also request, in open session of their own municipality’s Council meeting, any explanation they seek about the SCOP or any other issue before that Council. It is not up to the Board to dictate how either elected representatives or the people they represent deal with such issues. There is certainly an onus upon both to make democracy work.

[11] The Board is satisfied on the evidence before it that provisions for approval authority are in conformity with the SCOP and consistent with the PPS (2014). The orders of the Board arising from this hearing are appended to this decision as Attachment 2.

[12] The Board also scheduled the next Pre-hearing Conference on this matter which was held at 10:30 a.m. Friday, June 20, 2014 at:

**Nottawasaga Inn Resort and Conference Centre
6015 Highway 89
Alliston, ON, L9R 1A4**

"M. A. Sills"

M. A. SILLS
MEMBER

"Sylvia Sutherland"

SYLVIA SUTHERLAND
MEMBER

Ontario Municipal Board

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ATTACHMENT 1

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COUNTY OF SIMCOE OFFICIAL PLAN

List of Attendees at the June 2, 2014 Hearing

Counsel/Representative*	Appellant/Party/Participant
Roger Beaman, Marshall Green	Appellant 1
Susan Rosenthal	Appellants 2a, 2b, 3, 4
Susan Rosenthal for Meaghan McDermid	Appellant 10
James Feehely	Appellants 7, 15, 32
Ian Rowe	Appellants 17, 34, Party G1, G2, G3, V, X
Stephen Waqué	Appellant 33
Ken Hare/Ugo Popadic/Michael Spagnolo	Party A
Tracey Morden*	Party D
John Barzo	Party Q
Sandy Agnew*/Ann Truyens*/Bill French*	Participant 1
Chantale Gagnon*/David Perryman*	Participant 2
Anna Romano*	Participant 3
Bernard Pope*	Participant 8
Anne Ritchie-Nahuis*	Participant 9
Wendy Harry*	Participant 10
John Strong*	Participant 18

ATTACHMENT 2

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1. **THE BOARD ORDERS** that in accordance with the provisions of section 17(50) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, and further to the partial approval Orders of this Board issued June 13, 2013 as amended by an Order issued July 5, 2013 and an Order issued February 25, 2014 and an Order issued May 15, 2014, the Official Plan of the County of Simcoe as adopted by the County of Simcoe on November 25, 2008 and as recommended to be modified by the County of Simcoe on January 22, 2013, (the "Official Plan"), is hereby further modified and approved in part to implement this Order as provided below.

2. **THIS MATTER** having come on for a public hearing on June 2, 2014 and on reading the Minutes of Settlement between the County of Simcoe and the Township of Adjala-Tosorontio dealing with Phase 1a – 20,000 Population Policies, filed, and hearing the evidence of the County and the submissions of counsel, no party being in opposition,

That the remaining unapproved Phase 1a policies as set out in paragraph 6 of Attachment 3 of the Board Order issued on May 15, 2014 be approved as follows:

- (a) That the figure of "12,000" found in the opening paragraph of section 3.5.10 and in subsections 3.5.11C, 3.5.11H and 3.5.12 of paragraph 6 of Attachment 3 of the Board Order issued on May 15, 2014 be approved as the figure "20,000";
- (b) That the word "the" be added following the word "For" at the beginning of section 3.5.11 so that the section commences "For the purposes of this policy";
- (c) That subsection 3.5.10 i) be approved as follows:
"i) Does not involve an expansion of a *settlement area* boundary;"
- (d) That subsections 3.5.11.7, 3.5.11.9 and 3.5.11.10 be approved as follows:
"7. if the application is on lands within a *primary settlement area*;
9. if the application demonstrates how existing or proposed new *infrastructure* and *public service facilities* will be provided and used efficiently;
10. if the application is on lands within a rural *settlement area*, it demonstrates how the proposed *development* promotes its vitality and regeneration; and";

- (e) That the paragraph numbers within subsections 3.5.11B and 3.5.11E be approved as “1) through 11)”;
- (f) That subsection 3.5.11A be approved as follows:
“The County, in collaboration with the *local municipalities*, will identify lands that qualify as *lands not for urban uses* for each *local municipality*.”
Provided however that subsection 3.5.11A is not approved and remains under appeal on a site-specific basis for the lands of Party R being Innisfil Mapleview Developments Ltd.;
- (g) That the two remaining Issues for Phase 1a approved in paragraph 6(b) of Attachment 3 to the Board Order issued on May 15, 2014 be deleted; and
- (h) That Issues 12, 13 and 14 of Appellant Party 33 on pages 47d and 47e of Exhibit 54 having been withdrawn are deleted.