

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: March 10, 2016

CASE NO.: PL091167

PROCEEDING COMMENCED 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 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
OMB Case Name: Fellman v. Simcoe (County)

BEFORE:

M. SILLS) Thursday, the 10th
MEMBER)
) day of March, 2016

S. SUTHERLAND) Thursday, the 10th
MEMBER)
) day of March, 2016

THESE MATTERS having come before the Ontario Municipal Board (“Board”) by Written Motion and in accordance with s. 17(50) of the *Planning Act*, the Board orders as follows:

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 Orders issued February 25, 2014, May 15, 2014, July 28, 2014, August 1, 2014, August 25, 2014, February 19, 2015 February 20, 2015, August 31, 2015, January 25, 2016 and February 19, 2016, the Official Plan of the County of Simcoe as adopted by the County of Simcoe (“County”) on November 25, 2008 and as recommended to be modified by the County on January 22, 2013, (the “Official Plan”), is hereby further modified and approved in part to implement this Order as provided below.

AND THE BOARD FURTHER ORDERS on reading the Written Motion Record of the County dated January 20, 2016 brought under Rule 36 of the Board’s Rules of Practice and Procedure and dealing with certain policies for Phase 4a Resource Conservation (Policies 4.5.10 and 4.5.13) filed, the supporting Written Response to Motion dated February 4, 2016 of The Ontario Stone, Sand and Gravel Association and Parties J2 to J6, filed, no other responses being filed, that the Official Plan be further modified by substituting and approving the policies set out in Schedule 1 to this Order.

AND THE BOARD FURTHER ORDERS on reading the Written Motion Record of Orr Lake Golf Limited and Jason Harris dated January 5, 2016 brought under Rule 36 of the Board’s Rules of Practice and Procedure and requesting appellant party status in these proceedings on certain policies and issues, and the supporting Notice of Response of the County of Simcoe, filed, no other responses being filed, that the following is ordered:

- a. The time for service of the Motion is abridged;
- b. Orr Lake Golf Limited and Jason Harris are added as Appellant Parties 42a and 42b to these proceedings with involvement in policies 3.3.15, 3.8.11, 3.8.13, 3.8.14, 3.8.16, 3.8.20 and Appendix 1 in Phase 4a on a general basis and Schedule 5.1 in Phase 5 on a site-specific basis for their lands at 5637 and 5659 Penetanguishene Road in the Township of Springwater; and
- c. The Appellant Parties shall file a legal description of their lands and an Issues List as set out in paragraph 8 of the supporting affidavit with the County of Simcoe.

AND THE BOARD FURTHER ORDERS that the partial approval of the Official Plan as modified shall be without prejudice to, and shall not limit, any party and the Board from seeking, considering and approving modifications, deletions or additions to the unapproved policies, schedules and appendices of the Official Plan on a general, area-specific or site-specific basis, as the case may be, provided that the parties shall be bound by the commitments made by them to scope their issues to an area-specific or site-specific basis.

AND THE BOARD FURTHER ORDERS that the remaining appeals filed in respect of the Official Plan shall be determined through the hearing process or as otherwise consented to by the parties and approved by the Board.

A handwritten signature in black ink, appearing to read "Jane Hagg". The signature is written in a cursive, flowing style.

SECRETARY

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board
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Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

SCHEDULE 1

Resource Development – Phase 4a

Split policy 4.5.10 into 2 policies (4.5.10 and new 4.5.11, and renumber accordingly):

4.5.10* *Development and site alteration* shall not be permitted within:

- a) the *dynamic beach hazards*;
- b) areas that would be rendered inaccessible to people and vehicles during times of *flooding hazards, erosion hazards* and/or *dynamic beach hazards*, unless it has been demonstrated that the site has safe access appropriate for the nature of the *development* and the natural hazard; and
- c) a *floodway* regardless of whether the area of inundation contains high points of land not subject to flooding.

4.5.11* Notwithstanding 4.5.10, *development and site alternation* may be permitted in certain areas associated with the *flooding hazard along river, stream and small inland lake systems* within an approved *Special Policy Area(s)* according to their respective policies, or where the *development* is limited to uses which by their nature must locate within the *floodway*, including flood and/or erosion control works or minor additions or passive non-structural uses which do not affect flood flows. Any change or modification to the official plan policies, land use designations or boundaries applying to *Special Policy Area* lands, must be approved by the Ministers of Municipal Affairs and Housing and Natural Resources and Forestry prior to the approval authority approving such changes or modification.

Former 4.5.13 is renumbered to 4.5.14

4.5.14* Where there is a *Two Zone Concept* applied, and except as prohibited in policy 4.5.10, *development and site alteration* may be permitted within the *flood fringe* of a *river, stream, and inland lake systems* subject to appropriate flood proofing to the *flooding hazard* elevation or another *flooding hazard* standard approved by the Minister of Natural Resources and Forestry, and if the following criteria can be achieved:

- a) the hazards can be safely addressed, and the *development and site alteration* is carried out in accordance with *floodproofing standards, protection works standards, and access standards*;
- b) new hazards will not be created and existing hazards are not aggravated;
- c) no adverse environmental impacts will result;

- d) vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion, and other emergencies; and
- e) the *development* does not include *institutional uses*, *essential emergency services*, or the disposal, manufacture, treatment, or storage of *hazardous substances*.

Generally, subject to the approval of the appropriate regulatory agencies, agricultural structures in the *flood fringe* may be rebuilt where destroyed by fire or other event.

Note* - Party 13 maintains a site-specific appeal over these policies.